

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

RAJDEEP S. DHANOA, <i>Petitioner,</i>	§ § § § § § § §	v. CIVIL ACTION NO. 5:25-cv-00245
KRISTI NOEM, Secretary, Department of Homeland Security, <i>et al.</i> , <i>Respondents.</i>		

**RESPONDENTS’ RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241 AND MOTION TO DISMISS**

Respondents, Kristi Noem, Secretary of Homeland Security, *et al.*,¹ file this response to the Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (hereafter “the Petition”) (Dkt. No. 1) and respectfully request that the Court deny the Petition in its entirety. In the alternative, the Court should dismiss this case for failure to state claim pursuant to Federal Rule of Civil Procedure (“FRCP”) 12(b)(6).

SUMMARY OF THE ARGUMENT

Petitioner, Rajdeep S. Dhanoa, is currently detained at the Rio Grande Processing Center, in Laredo Webb County, Texas, pending U.S. Citizenship and Immigration Services (“USCIS”) to render a decision on his application for asylum after having been encountered by U.S. Customs and Border Protection (“USCBP”). On December 1, 2025, Petitioner filed this habeas action against Respondents seeking that a Notice to Appear (“NTA”) be filed, commencing Petitioner’s

¹ Respondents note that the proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). Since the filing of the Petition, Petitioner has remained in the U.S. Immigration and Customs Enforcement (“ICE”) federal facility in the Rio Grande Processing Center in Laredo, Webb County, Texas. Dkt. No. 1, ¶¶ 7, 9, 23. That said, it is the originally named federal respondents, not the warden of the federal facility where the Petitioner is being held, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

removal proceedings under Section 240 of the Immigration and Nationality Act, or alternatively that he be released from ICE custody as his continued detention violates the INA and his Due Process rights under the Fifth Amendment. Petitioner is further requesting that upon the filing of the NTA, a custody redetermination hearing should be held and that he be released on bond pending a decision on his I-589 asylum application.

The Petition should be denied in its entirety because Petitioner, a crewman under the INA, overstayed his valid entry period into the United States under a C1/D visa is not entitled to removal proceedings under Section 240 of the INA as Petitioner's conditional entry into the United States as an alien crewmember was revoked under 8 U.S.C. § 1282(b) after failing to depart by the valid entry period under his visa. Moreover, an Immigration IJ's jurisdiction over Petitioner is limited to reviewing his pending asylum application under 8 C.F.R. § 1208.2(c). Petitioner is not entitled to a bond or judicial review of his removal status by an IJ. Accordingly, Petitioner's request for judicial review of the Immigration Judge's bond denial for lack of jurisdiction should be denied.

For these reasons, and the reasons provided below, the Court should deny the Petition (Dkt. No. 1) and deny his release on bond pending a final decision on his pending asylum application. In the alternative, the Court should dismiss this pursuant to FRCP 12(b)(6) as Petitioner has failed to state a claim against the custodian of Petitioner and therefore, dismissal is appropriate under 28 U.S.C. §§ 2241-43.

RELEVANT BACKGROUND²

Petitioner, Rajdeep S. Dhanoa, is a native and citizen of India. Dkt. No. 1, ¶ 15; **Gov't Ex. 1** at 1-2 (Petitioner's Form I-213- Record of Deportable/Inadmissible Alien). According to DHS

² Respondents' Relevant Background is taken from Petitioner's Petition (Dkt. No. 1) and attached **Gov't Exs. 1-6**.

records, Petitioner was issued a C-1/D visa³ as an alien crewmember on a cruise ship on June 30, 2022, at the Port of Miami, Florida. Dkt. No. 1, ¶ 20; **Gov't Ex. 2** at 1 (DHS's Query for Petitioner). Accordingly, Petitioner entered the United States on June 30, 2022, on a C-1/D visa and was authorized to remain in the United States until June 30, 2022, that same day, but did not board his flight; thus, Petitioner did not depart on that date. **Gov't Ex. 1** at 1-2; **Gov't Ex. 2** at 1.

On September 26, 2025, a U.S. Border Patrol agent encountered Petitioner at the Laredo Sector checkpoint area, near Laredo, Texas, who after interviewing Petitioner, determined that Petitioner initially "lawfully" entered the United States as a crew member aboard a cruise ship at or near the Port of Miami. Dkt. No. 1, ¶ 23; **Gov't Ex. 1** at 2. Petitioner further admitted to being a citizen and national of India "with no current right to be in or remain in the United States legally and that he has stayed past his [sic] permitted time and failed to depart as required." *Id.* As a result, a warrant for Petitioner's arrest was issued (**Gov't Ex. 3**) and he was transported the Laredo Sector Processing Center for further processing. **Gov't Ex. 1** at 2. Petitioner was taken into ICE custody at the Rio Grande Processing Center in Laredo, Texas, where Petitioner remains detained to this date.

On October 3, 2025, after determining that Petitioner did not qualify for removal proceedings under Section 240 of the INA given his C-1/D visa overstay status, ICE issued Petitioner a Notice to Alien Ordered Removed/Departure Verification, which provided that he had been found inadmissible to the United States under INA section 212(a), or deportable under INA

³ "An alien crewman traveling to meet a vessel in the United States is issued a 'C-1/D' visa, which is a dual 'C-1' and 'D' Visa." *Petison v. United States AG*, 482 Fed. App'x 442, 443 (11th Cir. 2012). "A 'D' visa is given to a nonimmigrant alien serving aboard a vessel or aircraft 'who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft.'" *Id.* (citing INA § 101(a)(15)(D)(i), 8 U.S.C. § 1101(a)(15)(D)(i) (emphasis added); 8 C.F.R. § 214.1(a)(2); 22 C.F.R. § 41.41("An alien is classifiable as a nonimmigrant crewman upon establishing to the satisfaction of the consular officer the qualifications prescribed in INA § 101(a)(15)(D)"). 8 U.S.C. § 1101(a)(15)(D)(i). "A 'C-1' visa is given to a nonimmigrant alien in immediate and continuous transit through the United States." *Id.* (citing INA § 101(a)(15)(C), 8 U.S.C. § 1101(a)(15)(C); 8 C.F.R. § 214.1(a)(1)(ii), (2)).

section 237 as a Visa Waiver Pilot Program violator. **Gov't Ex. 4** at 1 (Petitioner's Form I-296, Notice to Alien Ordered Removed/Departure Verification). The removal notice provided that Petitioner is prohibited from entering, attempting to enter, or being in the United States:

[f]or a period of 10 years from the date of your departure from the United States as consequence of your having been ordered removed in proceedings under any section of the [INA] *other than section 235(b)(1) or 240*, or of being ordered excluded under section 236 of the [INA] in proceedings commenced prior to April 1, 1997.

Id. (emphasis added). Petitioner refused to sign the Verification of Removal. *Id.* Pending a decision by USCIS on his I-589 asylum application, Petitioner requested a custody redetermination and on October 31, 2025, a Laredo Immigration Judge ("IJ") held a bond hearing, and denied the request for custody redetermination because the court lacked jurisdiction. Dkt. No. 1, ¶ 25; **Gov't Ex. 5** at 1 (Order of the Immigration Judge, Oct. 31, 2025). The IJ cited the BIA decision of *Matter of A-W-*, 25 I&N Dec. 45 (BIA 2025) in determining that it lacked jurisdiction because "[t]here is no charging document issued or filed in this case." *Id.* Furthermore, Petitioner "reserved" his right to appeal the bond denial decision by the deadline of "12/01/2025." **Gov't Ex. 5** at 2. Petitioner did not appeal the decision by the ordered deadline, and Petitioner's removal notice (**Gov't Ex. 4**) will become administratively final upon a final decision on his pending asylum application with USCIS. *See* Dkt. No. 1, ¶¶ 26-31.

PROCEDURAL BACKGROUND

On December 1, 2025, Petitioner, Rajdeep S. Dhanoa, filed this action under 28 U.S.C. § 2241 challenging the lawfulness of his continued detention at the Rio Grande Processing Center in Laredo, Texas, claiming Respondents have violated his rights under the Immigration and Nationality Act ("INA") and Fifth Amendment Due Process Clause. Dkt. No. 1, ¶¶ 33-41.⁴ On

⁴ The Petition cites to a Fifth Circuit case, *Franco v. Holder*, 662 F.3d 393 (5th Cir. 2011), that does not exist. *See* Dkt. No. 1, ¶¶ 32, 38, 40. Specifically, in Counts II and III of the Petition, Petitioner challenges the constitutionality

December 3, 2025, the Court ordered Respondents to file their response to the Petition **no later than December 17, 2025**, Dkt. No. 4 at 1. The Court further ordered that “Respondents shall either attach to the response a copy of the Petitioner’s Notice to Appear or explain why the Petitioner has not been provided with the Notice to Appear and provide the statutory authority under which the Petitioner is being detained. *Id.*”⁵

Respondents filed an unopposed motion to extend their deadline to respond to the Petition to Friday, December 19, 2025, on grounds that their counsel of record had conflicting deadlines and multiple concurrent deadlines in unrelated immigration matters, thus, required an additional two days to respond to the Petition. Dkt. No. 12, ¶¶ 2-4. On December 19, 2025, the Court granted Respondents’ motion and extended the response deadline to December, 19, 2025. Dkt. No. 13. Accordingly, Respondents respectfully request that the Petition be denied in its entirety or in the alternative, the Petition should be dismissed for failure to state a claim pursuant to FRCP 12(b)(6).

APPLICABLE LAW

In a petition for a writ of habeas corpus, the petitioner is challenging the legality the restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941). When it comes to detention during removal proceedings, it is well-taken that the authority to detain is elemental to the authority to deport, as “[d]etention is necessarily a part of th[e] deportation procedure.”

of his detention in the ICE facility, in accordance with *Franco. Id.*, ¶¶ 38, 40. However the *Franco* citations in his Petition pertain to a 2011 unrelated criminal case out of the Sixth Circuit: *United States v. Gross*, 662 F.3d 393 (6th Cir. 2011). The Court should give no weight to any claims that are based on the purported Fifth Circuit, *Franco v. Holder*.

⁵ Respondents attach the Notice to Appear (“NTA”) originally served on Petitioner on September 28, 2025, which Petitioner refused to sign. *See Gov’t Ex. 6* at 2 (Notice to Appear). However, as provided below, Petitioner’s overstay as a C-1/D visa holder warranted revocation under 8 U.S.C. § 1282(b) and thus, Petitioner is not entitled to removal proceedings under Section 240 of the INA and pursuant to the NTA. Accordingly, a removal notice was issued in October 2025 (*Gov’t Ex. 4*) and his removal to India is subject to a final decision on Petitioner’s asylum application with USCIS.

Carlson v. Landon, 342 U.S. 524, 538 (1952); see *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (“Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation.”). As the Supreme Court has stated in no unmistakable terms, “[d]etention during removal proceedings is a constitutionally permissible part of that process.” *Demore v. Kim*, 538 U.S. 510, 531 (2003).

A court may dismiss a claim for “failure to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quotations omitted). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* “Where a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability, it ‘stops short of the line between possibility and plausibility of ‘entitlement to relief.’” *Id.* (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007) (brackets omitted)). “Threadbare recitals of the elements of a case of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678. Nor must a court accept as true “legal conclusions” or “a legal conclusion couched as a factual allegation.” *Id.* at 678-79.

ARGUMENT

I. Petitioner is not entitled to Removal Proceedings under Section 240 of the INA because he did not intend to depart to India after his conditional C-1/D visa period expired.

Petitioner’s habeas Petition should be denied because he is not entitled to removal proceedings under Section 240 of the INA, 8 U.S.C. § 1229. The Petitioner alleges that because

he has not been served with an NTA, “[n]o removal proceedings exist.” Dkt. No. 1, ¶ 24. Thus, Petitioner argues that ICE cannot lawfully hold “an asylum applicant while refusing to issue charges, refusing to begin expedited removal, and refusing to schedule any lawful procedure.” *Id.*, ¶ 28. However, while Petitioner concedes his entry into the United States on June 30, 2022, was lawful on a C-1/D visa, he fails to mention that his failure to depart to India on that date warranted immigration official to revoke his C-1/D visa under 8 U.S.C. § 1282(b).

“As usual, we start with the statutory text.” *Restaurant Law Center v. U.S. Dep’t of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Under the plain language of § 1282, immigration officials are expressly conferred discretion to grant, or refuse to grant, conditional landing permits to a nonimmigrant “alien crewman.” 8 U.S.C. § 1282(a). An alien crewman is defined as “a person serving in any capacity on board a vessel or aircraft.” 8 U.S.C. § 1101(a)(10). Crewmen are subject to special restrictions under the immigration laws. While they may be granted permission to land for shore leave, they must leave when the ship leaves, when another vessel leaves, or within 29 days – whichever is sooner. 8 U.S.C. § 1282(a)(1).

A crewman who arrives after June 30, 1964, cannot obtain cancellation of removal. 8 U.S.C. § 1229b(c)(1). “A,” “C,” or “D” nonimmigrants cannot change to a different nonimmigrant classification. 8 U.S.C. § 1258(a)(1). The carrier cannot discharge crewmen in the United States without the prior consent of the Secretary of Homeland Security. 8 U.S.C. § 1286. A crewman who fails to depart as required is not entitled to a removal proceeding before an immigration judge. 8 U.S.C. § 1282(b). Notably, overstaying a crewman’s authorized period is a criminal offense. 8 U.S.C. § 1282(c). As the Supreme Court has noted, “the sailor [is] one of the agencies which brought the ship in, rather than an alien brought in by the ship.” *Osaka Shosen Kaisha Line v. United States*, 300 U.S. 98, 103 (1937).

Pursuant to 8 C.F.R. § 252.1(a), an immigration officer in his discretion may grant an alien crewman authorization to land temporarily” or “for the purpose of departing” through other means of transportation.” 8 C.F.R. § 252.1(a); *see also* § 1282(a). However, “[a] crewman who was granted landing privileges on or after April 1, 1997, and who has not departed...on the vessel of arrival, or on another vessel or aircraft...shall be removed from the United States without a hearing, except as provided in § 208.2(b)(1).” *Kombo v. Clark*, No. C08-1799-RSL, 2009 WL 1181257, at *2 (W.D. Wash. Apr. 30, 2009) (quoting 8 C.F.R. § 252.2(b)).

In addition to removal from the United States, an alien crewman that fails to depart with his vessel, is barred from adjusting his status. The Fifth Circuit has definitively ruled on this. *See Ahmed v. Gonzales*, 447 F.3d 433, 438 (5th Cir. 2006) (“But for § 1255(i), Ahmed ... would have no grounds for adjustment of status because 8 U.S.C. § 1255(c) bars “an alien crewman” *who overstays his visa from receiving adjustment of status.*”) (emphasis added); *see also Ahmad v. Morris*, 461 F. Supp. 123, 128 (M.D. Pa. 1978) (“[I]t is plaintiff’s status as an alien who [e]ntered the country as a crewman, rather than the legality of the continued residence in the United States, which required ... [the Government] to deny the application for adjustment of status once it was determined that the applicant entered the country as an alien crewman.”).

Here, Petitioner was admitted the United States on June 30, 2022, as a crewman under C-1/D visa, with authorization to remain in the United States until his flight scheduled to return back to his country that same evening. **Gov’t Ex 1** at 1-2; **Gov’t Ex. 2** at 1. Petitioner failed to depart about his scheduled flight on June 30, 2022, as required. *See* INA § 252(a); 8 U.S.C. § 1282(a); 8 C.F.R. § 252.1(d). Accordingly, the expedited removal of Petitioner under the notice of removal (**Gov’t Ex. 4**) served on him for violating 8 U.S.C. § 1282(b). Although Petitioner is not entitled to removal proceedings before an immigration court, upon a final decision by USCIS on his

pending asylum application, Petitioner may pursue an asylum-only proceeding to which an immigration court has exclusive jurisdiction. *See* 8 C.F.R. § 1208.2(c)(i)(A)-(C).

Because Petitioner is already removable, pending only the result of his I-589 asylum application and thereafter, conclusion of “asylum-only” proceedings before an Immigration Judge. *See Gov’t Ex. 4* at 1; 8 C.F.R. §§ 252.2(b), 208.2(b)(1). “Once he is denied any relief, Petitioner can be removed by “any immigration officer.” *Boa Tai Nian v. Holder*, 683 F.3d 1227, 1228 (9th Cir. 2012) (citing 8 U.S.C. § 1282(b)). Petitioner’s expedited removal pending a final decision on his asylum application is proper under INA and his removal from the United States is not subject to Section 240 of the INA, 8 U.S.C. § 1229. Thus, the Court should deny Petitioner any habeas relief warranting issuance of an NTA or release on a bond pending his removal to India.

II. Petitioner’s Remaining Due Process Claim Fails.

In addition to the statutory arguments, Petitioner asserts a Due Process claim. Dkt. No. 1, ¶¶ 37-38. This claim has no merit. With respect to Due Process, Petitioner argues that “the IJ applied the wrong legal standard by placing the burden on Petitioner under *Matter of A-W-*, a decision that does not apply outside § 1226(a) proceedings and violates due process when used to shift the burden to the detainee.” Dkt. No. 1, ¶ 38. This type of conclusory assertion, which merely reasserts a disagreement with Respondents’ application of 8 U.S.C. § 1282(a) and 8 C.F.R. § 252.1(a) in its position that the IJ lacks jurisdiction to issue a bond, does not establish a valid Due Process claim. *See, e.g., Cabanas*, 2025 WL 3171331, at *7 (acknowledging that the habeas petition’s allegation that government’s detention without a bond redetermination violates due process “appears to present nothing beyond the larger contention as to the relevant and applicable

statute to apply”). Petitioner’s Due Process claim fails as he reserved his right to appeal the IJ’s bond denial yet failed to do so by the appeal deadline of December 1, 2025. **Gov’t Ex. 5** at 2.

Alternatively, Petitioner’s Due Process Claim fails for lack of standing under persuasive authority out of the Western District of Washington, where the petitioner failed to appeal the IJ’s denial of a bond redetermination for lack of jurisdiction under 8 C.F.R. § 252.2(b). *Kombo*, 2009 WL 1181257, at *3. There, the district court held that the petitioner lacked standing to bring a Due Process claim “because he failed to avail himself of the administrative remedies available to him. *Id.* (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *Lewis v. Casey*, 518 U.S. 343, 351 (1996)). Similar to *Kombo*, “the government cannot be held to have violated procedural due process requirements when it has made administrative procedures available to the petitioner” by requesting a bond redetermination hearing before an IJ on October 31, 2025; yet the petitioner ultimately “refused to avail himself to them.” *Kombo*, 2009 WL 1181257, at *3; **Gov’t Ex. 5** at 1-2. Like the district court in *Kombo*, this Court should find that because Petitioner did not take advantage of the “procedural processes available to him, he lacks standing to challenge such procedures as constitutionally inadequate.” *Id.*

In summary, Petitioner’s conclusory claim and his failure to avail himself of the administrative remedies available to him after the IJ’s denied a bond on jurisdictional grounds, warrant denial of Petitioner Due Process claim under the Fifth Amendment.

III. Dismissal for failure to state a claim against the Wardern of Rio Grande Processing Center should be granted pursuant to FRCP 12(b)(6).

Lastly, and in the alternative, the Court should dismiss the Petition for failure to state a claim. To state a claim under 28 U.S.C. § 2241, the Petition “shall allege facts concerning the applicant’s commitment or detention, *the name of the person who has custody over him and by virtue of what claim or authority, if known.*” 28 U.S.C. § 2242 (emphasis added). The Petition fails

to name the warden of that facility where Petitioner is being held and as such, has not been properly served with the Petition. The Court should dismiss this action under FRCP 12(b)(6) on this basis alone. *See Padilla*, 542 U.S. at 434-35 (“[T]here is generally only one proper respondent to a given prisoner’s habeas petition...[t]his custodian...is ‘the person’ with the ability to produce the prisoner’s body before the habeas court.”).

CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny Petitioner’s request for habeas relief (Dkt. No. 1) and grant the instant motion. The Court should enter judgment as a matter of law finding that Petitioner is lawfully detained and subject to removability outside of Section 240 proceedings under the INA pursuant to 8 U.S.C. § 1282 and 8 C.F.R. § 1208.2. In the alternative, the Court should dismiss the Petition for failure to state a claim under FRCP 12(b)(6).

Respectfully submitted,

NICHOLAS J. GANJEI
United States Attorney
Southern District of Texas

By: *s/ Baltazar Salazar*
BALTAZAR SALAZAR
Assistant United States Attorney
S.D. Tex. ID. No. 3135288
Texas Bar No. 24106385
United States Attorney’s Office
Southern District of Texas
600 E. Harrison, Suite 201
Brownsville, Texas 78520
Telephone: (956) 983-6057
Facsimile: (956) 548-2775
E-mail: Baltazar.Salazar@usdoj.gov
Counsel for Respondents

CERTIFICATE OF SERVICE

I, Baltazar Salazar, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on December 19, 2025, a copy of the foregoing was served on counsel for Petitioner via CM/ECF email notification.

By: *s/ Baltazar Salazar*
BALTAZAR SALAZAR
Assistant United States Attorney