MOTIONS FOR FILING

DEAR CLERK,
HOPE YOU ARE WELL.

- Enclosed are my initial legal brief for a 2241 (Habeas motion) - 52 pages
- Exhibits, 7 pages
- Motion for Preliminary Injunction and temporary restraining order - 2 pages
- Motion to appoint Counsel - 2 pages
- Attached $5 fee for the brief

Please Kindly file.

Respectfully submitted,

Okechukwu Desmond Amadi

[redacted] 12/6/2025

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

OKECHUKWU DESMOND AMADI

v.

WARDEN JEREMY CASEY

DIRECTOR OF U.S IMMIGRATION AND CUSTOMS

ENFORCEMENT (ICE); TODD LYONS

SECRETARY OF THE DEPARTMENT OF HOMELAND

SECURITY; KRISTEN NOEM

ATTORNEY GENERAL OF THE UNITED STATES OF

AMERICA; PAM BONDI

'25CV3497 RSH BJW

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C SECTION 2241

Petitioner, Okechukwu 'Desmond' Amadi, respectfully moves this court to exercise authority under Article III to, upon considering the facts presented herein regarding Petitioner's underlying criminal conviction, declare that the underlying criminal conviction is not an aggravated felony. Furthermore, Petitioner requests that the court order Petitioner's immediate release from detention. Petitioner asserts that his current detention at Imperial Detention facility is unlawful and therefore in violation of the constitution of the United States of America. In support of this Petition and complaint for injunctive relief, Petitioner alleges as follows ;

JURISDICTION

This action arises under the constitution of the United States, and the Immigration and Nationality Act ("INA"), Section 212(a)(2)(A)(i)(I),. This Court has jurisdiction under 28 U.S.C. Section 2241 of the United States constitution, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in clear violation of the Constitution, laws and treaties of the United States, therefore Jurisdiction lies in this Court, the judicial district in which petitioner is held in custody.

ISSUES RAISED IN THE IMMIGRATION COURT AND THE RESOLUTION BY THE IMMIGRATION JUDGE.

The original notice to appear charged Petitioner with being subject to removal pursuant to section 212 (a)(2)(A)(i)(I) of the Immigration and Nationality Act, specifically charging him with committing a 'crime involving moral turpitude'.

Petitioner asserted in his original brief that even if a removal proceeding is initiated, a litigation of the facts and issues of the underlying criminal conviction will prove, on the merits, that the crime for which Petitioner is charged is not a crime of moral turpitude, citing United States vs. Lisette Lopez 75 F.4 th (11 th Cir 2023), in which the Chief Judge William Pryor, in his ruling categorically stated that " conspiring to launder money offense, 18 U.S.C.S § 1956(h) did not categorically involve moral turpitude."

The Immigration Judge agreed with this ruling and conceded to the reasoning in the 11 th circuit ruling that the only charge for which Petitioner was charged on the Notice to Appear was not a crime of moral turpitude.

Following this decision by the Immigration judge on 09 /29/2025, 150 days after Petitioner was arrested and detained pursuant to the original notice to appear issued on 05/02/2025 upon his release from Federal custody, the DHS substituted the grounds for inadmissibility in a second notice to appear effecting rendering Petitioner's time incarcerated inconsequential. Petitioner filed a motion to terminate Immigration proceedings on these grounds namely;

- That the government is barred from amending the prior notice to appear with a subsequent Notice to appear where, a final judgement on the merits of the case has been entered; the government had a full and fair opportunity to litigate the issues in the amended notice to appear and the underlying conduct for the subsequent notice to appear arise out of the same nucleus of operative facts as the prior Notice to appear. Petitioner effectively raised a Res judicata argument citing numerous case law that support a Res judicata argument in Immigration Court.

- That the subsequent notice to appear filed on 09/29/2025 effectively amends the notice to appear and therefore is a relitigation of the scope of his guilt which is categorically barred by the doctrine of collateral estoppell and violates the categorical approach.
- That the BIA (Board of Immigration Appeals) 's N-A-M analytical framework precludes the application of a circumstance-specific analysis for the

determination of Immigration-related consequences when the underlying criminal conviction charged in the notice to appear is a charge under 1956 (h), the crime Petitioner was charged under.

The Judge also asked both parties, Petitioner and the DHS to filed motions to address "the issue of whether petitioner should have been considered inadmissible upon his arrest at the airport in J.F.K". Petitioner's position was that an LPR, like himself, should not be treated as seeking admission upon arrival at the airport after a brief trip abroad, where has been charged with " but not yet convicted of a crime". In support of this position Petitioner cited Mau Choi lau vs Bondi, 21-6623 (2 nd circuit 2025) (contrary to our sister circuit's conclusion that the INA is silent on the issue of 'sequence' , stating 'Contrary to our sister circuit's conclusion that the INA is silent on the issue of timing, we find that the INA is definitive on the question of sequence: DHS must determine whether an LPR is an applicant for admission as a threshold matter 'before' it is authorized to parole ,rather than admit, that individual. See 8 U.S.C § 1101(a)(13)(C) (establishing a presumption that LPRs are not to be treated as seeking an admission except upon a finding of certain specified conditions) id. § 1182(d)(5)(A) ,authorizing parole only with regard to 'aliens applying for admission to the United states'. Accordingly, we see no statutory basis to conclude that DHS is allowed to use a subsequent conviction to provide an after-the-fact justification for its prior decision to parole an LPR upon reentry.") The Court emphasized that "Our decision does not leave the DHS without lawful means to remove LPRs who have committed CIMTs".

The Immigration Judge agreed with the government's position citing a ninth circuit case which principally relied on a "reason to believe" that a person committed an offense effectively creating a conflict between the Ninth circuit and the Second circuit court of Appeal on this issue of great public import. Given the gravity of the issue at stake and the very exhaustive and brilliant reasoning in the Mau case, Petitioner is confident that his position is meritorious and that he will eventually prevail. Petitioner intents to litigate this very issue to its logical conclusion. The litigation of this issues will likely take years to fully litigate considering that Petitioner will have to file an appeal in the BIA with the possibility of filing another appeal with the Ninth circuit court of Appeals.

On 12/03/2025 the Immigration Judge ruled that based on the substituted charge on the Notice to appear, Petitioner was charged with is an aggravated felony. Petitioner seeks to through this motion contest this ruling. Petitioner asserts, in challenging the scope of the offense, that the crime for which he was charged is not an aggravated felony. Petitioner presents his arguments in this brief (See Count Four)

Questions Presented

Whether the continued detention of Petitioner, a lawful permanent resident for Six-months without a meaningful opportunity for a bond hearing is lawful?

Whether the crime of Conspiracy to commit money laundering under 1956(h) is an aggravated felony where government failed to determine the "proceeds" element?

LEGAL STANDARD

An alien can challenge the scope of the offense as to whether the offense for which he was charged qualifies as an aggravated felony as a ground for his removal. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) does not change the scope of habeas review under 28 U.S.C.S 2241, and pre-IIRIRA claims challenging the legality of Immigration and Naturalization Service detention are cognizable both on direct review and on habeas. See Chang v. INS 307 F.3d 1185 (9 th circuit October 2002).

PARTIES

1. Petitioner, Okechukwu 'Desmond' Amadi is a native of CANADA and a citizen of Nigeria. Petitioner is also a lawful Permanent Resident of the United States of America.
2. Warden Jeremy Casey is the Warden of Imperial Detention facility, where Petitioner is currently detained under the authority of ICE. The Warden is the immediate custodian of Petitioner.
3. Todd Lyons is the Director of U.S Immigration (ICE) who is charged with the enforcement of the INA and Immigration laws.
4. Kristen Noem is the Secretary of the department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such Kristen Noem is the legal custodian of Petitioner.

5. Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the Implementation and enforcement of the Immigration and Naturalization Act (INA). As such Pam Bondi has ultimate custodial authority over Petitioner.

FACTUAL BACKGROUND

1. Following a 12 day trip abroad, Petitioner returned to the United States on September 28th, 2017. Upon presenting his valid green card (Lawful permanent resident card) and his international passport, Petitioner was arrested pursuant to a federal indictment charging Petitioner with Conspiracy to commit money laundering in violation of U S code 1956 (a)(1)(B)(i) initiated out of the Middle District of Florida, Tampa Division.
2. Petitioner, after a 6 day trial, was convicted and later sentenced to 135 months in Federal custody. Petitioner through rehabilitative programming under the First Step Act (FSA) got his sentence reduced by a year resulting in a release date of 05/02/2025.

3. Upon completion of his federal sentence, Petitioner was arrested from the BOP (Bureau of Prisons) on 05/02/2025 pursuant to an NTA (Notice to Appear) issued by the Department of Homeland Security.

4. The Notice to Appear charged Petitioner with being subject to removal pursuant to section 212 (a)(2)(A)(i)(I) of the Immigration and Nationality Act, specifically charging him with committing a "crime involving moral turpitude". (See Notice to appear Exhibit A)

5. Accompanying the Notice to Appear is a warrant for arrest signed by an Immigration Officer, Travis Sayer, stating that "biometric confirmation of the subject's identity...indicate...subject either lacks immigration status or notwithstanding such status is removable under U.S immigration law ". (See attached Exhibit B)

6. Petitioner has been a lawful permanent resident of the United States since 2004. Petitioner entered the United States on August 26, 1997, at Atlanta GA as an F-1 student visa. Petitioner's status was then adjusted to that of a lawful permanent resident at Dallas Texas on October 20, 2004, therefore Petitioner has been in the United States of America for 28 years.

7. Upon release from the BOP (Bureau of Prison) on his release date of 05/02/2025, Petitioner was arrested pursuant to a NTA (Notice to Appear)

issued by the Department of Homeland security which was served upon Petitioner alongside an arrest warrant. The NTA (notice to appear) was subsequently filed with the Atlanta Immigration court, thus commencing removal proceedings against him under section 212 (a)(2)(2)(A)(i)(I).

8. The NTA (Notice to appear) did not assert that Petitioner had abandoned or relinquished his lawful permanent resident status or otherwise failed to maintain permanent residency in the United States of America.

9. The Department of Homeland Security has determined upon Petitioner's release to treat Petitioner not as a lawful permanent resident but rather as a person who "either lacks Immigration status or notwithstanding such status is removable under U.S Immigration law, even though the Department of Homeland Security possesses documentary proof of Petitioner's Immigration history/ Immigration Status as reflected on the NTA (Notice to Appear).

10. Petitioner currently has a residence approved by probation Officer, Danielle Huck, in Garland Texas for his supervised release.

11. On 09/29/2025 after a ruling by the Immigration Judge that the crime for which Petitioner was charged with, is not a crime of moral turpitude, the DHS decides to substitute the notice to appear, without conducting a custody re-

determination hearing, effectively re-initiating the commencement of another removal proceeding 150 days after Petitioner's arrest.

EXHAUSTION

Petitioner filed a request for release, in the form of a letter, with the Warden of Imperial Detention Facility on 11/03/2025. Petitioner asked to know the best way to present the request to Warden Jeremy Casey and was told to mail it to the address for Imperial Detention facility which also serves as the official address for receiving formal correspondence. Petitioner mailed it on 11/03/2025 and up to the date of filing this brief Petitioner has not received a formal notice of receipt nor a response from Warden Jeremy Casey. (See letter sent to Warden Jeremy Casey Exhibit C)

Petitioner also has met on several occasions with his Deportation Officer Gonzalez and has brought up the issue of his release on bond or parole by ICE during these encounters. Petitioner after repeated requests sent a formal request in writing to Deportation Officer Gonzalez. Petitioner mailed it on 11/03/2025, to an address which serves as the official address for receiving formal correspondence, and up to the date of filing this brief, Petitioner has not received a formal notice of receipt nor a response from Deportation Officer Gonzalez. (See letter sent to Deportation Officer Gonzalez Exhibit D).

FAILURE OF DHS TO CONDUCT A CUSTODY REDETERMINATION HEARING FOR THE SECOND NOTICE TO APPEAR.

Petitioner challenged the original notice to appear and continues to do so on the second one. Petitioner argued that he is not properly included under § 1225 as an "arriving alien". Upon Petitioner's arrest on 05/02/ 2025, an initial custody determination was conducted after which a decision was made to detain Petitioner. On 09/29/2025, 150 days after Petitioner's arrest the DHS substituted the original NTA (Notice to appear). Upon the initiation of the second notice to appear, the DHS failed to conduct a custody determination (I-286) for the substituted NTA, therefore the DHS failed to adhere to procedures it put in place in clear violation of Petitioner's due process rights. In other words, the process attendant to the issuance of the Second Notice to appear was constitutionally inadequate and violates Petitioner's due process rights under the Fifth

Amendment. The DHS in avoiding the custody determination failed to provide Petitioner with a meaningful opportunity to make a case for eligibility for bond/parole. Specifically, the statue mandates that a Petitioner can challenge and present evidence as to whether he is properly included as a person who is to be mandatorily detained under the statute.

The Department of Homeland Security has no intention whatsoever of releasing Petitioner therefore any other requests will be futile. Petitioner's current detention is causing irreparable harm as his liberty interest is implicated. The Department of Homeland Security had effectively made a final decision not to release Petitioner. First at the redetermination hearing held at Stewart Detention Center where the DHS emphatically made the case that Petitioner is an "arriving alien" and therefore the Judge had no jurisdiction to hear the bond. Petitioner was then moved to Calexico California on 06/05/2025. The two subsequent requests sent to the Warden Jeremy Casey and Deportation Officer Gonzalez respectively here in Calexico, California which were both left unanswered. This case is therefore ripe for Judicial review by this court.

CLAIMS FOR RELIEF

COUNT ONE

Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. Respondent's have failed to justify the continued detention of Petitioner, who is unlikely to be removed in the reasonably foreseeable future. Petitioner's continued detention by Respondents is unlawful and therefore in violation of the Fifth Amendment of the United States constitution. Petitioner has a due process right to a fair hearing regarding his eligibility to be granted a bond while removal proceedings are ongoing. "it is well-settled that the Fifth Amendment entitled aliens to due process in deportation proceedings." Argueta anariba, 190 F.Supp. 3d at 348 (citing Reno v. Flores, 507 U.S 292, 306, 113 s. ct.1439, 123 L.Ed.2d 1 (1993)). The Attorney general has effectively interpreted 8 U.S.C. & 1225(b)(2) to require mandatory detention without bond hearings for Petitioner because he was arrested at the airport upon arrival from a brief visit abroad while he had a pending charge. " [I]n a series of decisions since 2001, 'the Supreme Court and [the Ninth Circuit] have grappled in piece-meal fashion with whether the various detention statutes may authorize indefinite or prolonged detention of detainees and, if so, may do so without providing a bond hearing.'" Rodriguez v. Robbins (Rodriguez II), 715 f.3d 1127, 1134 (9 th Cir.2013) (quoting Rodriguez v. Hayes (Rodriguez I), 591 f.3d 1105, 1114 (9th Cir.2010)). In Zadvydas v. Davis, two noncitizens, who had been ordered removed but whose removal could not be effectuated due to lack of a repatriation treaty or because their designated countries refused to accept them, challenged their prolonged detention under 8 U.S.C. & 1231(a)(6), which governs detention beyond the ninety-day removal period. Applying the canon of constitutional avoidance because a "statute permitting indefinite detention of an alien would raise a serious constitutional problem, "the Supreme Court "read an implicit limitation into " & 1231 (a)(6) and held that the statute "limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States." Zadvydas, 533 U.S. at 689. Thus, "after a presumptively reasonable six-month periodof post-removal period detention, the alien was entitled to release if he successfully demonstrates that there was 'good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future.'" Prietoromero, 534 F.3d at 1062 (quoting Zadvydas, 533 U.S at 701). In Zadvydas, the Supreme Court further held that sections which are construed to authorize indefinite detention should instead be construed so as to avoid a "serious constitutional problem," 533 U.S at 690) to authorize the government "to detain a removable alien....only for a period reasonably necessary to secure the alien's removal." 533 U.S. at 682. The court recognized a six-month "presumptively reasonable period of detention," id. At 701, after which " the alien is eligible for conditional release if he can demonstrate that there is 'no significant likelihood of removal in the reasonably foreseeable future.'" Clark v. Martinez, 543 U.S. 371, 378, 125 S.Ct. 716, 160 l.Ed.2d 734 (2005) (quoting Zadvydas, 533 U.s at 701). See also Argueta Anariba, 190 f.Supp.3d at 348 (Zadvydas "established a presumption of six months as a reasonable period of detention while an order of removal is carried out" because "indefinite detention without adequate safeguards could violate aliens' due process rights.")

In the Rodriguez class action, noncitizens "challenged their prolonged detention pursuant to 8 U.S.C. §§ 1225(b), 1226(a), 1226(c), and 1231(a) without individualized bond hearings and determinations to justify their continued detention." Rodriguez v. Robbins (Rodriguez III), 804 f. 3d 1060, 1065 (9 th Cir.2015). In Rodriguez II, to avoid constitutional concerns, the Ninth Circuit held that mandatory detention under § 1226(c) and §1225 (b) is implicitly time-limited and expires after six months. Thereafter, the government's authority to detain shifts to § 1226(a), which requires a bond hearing governed by the procedural requirements set forth In Singh v. Holder, 638 F.3d 1196 (9 th Cir.2011). Rodriguez II, 715 F.3d at 1138-44. In Rodriguez III, the Ninth circuit held that for noncitizens detained under 8 U.S.C. §§ 1225 (b),1226 (a), and 1226 (c), "the government must provide periodic bond hearings every six months so that noncitizens may challenge their continued detention as 'the period of .... confinement grows.'" Rodriguez III, 804 F.3d at 1089 (quoting Diouf v. Napolitano (Diouf II), 634 f.3d 1081,1091 (9 th Cir. 2011)).

COUNT TWO

Petitioner's arrest on 05/02/2025, without a Judicial warrant violates the Fourth Amendment of the United States Constitution. The Department of Homeland Security failed to present a warrant/arrest warrant accompanied with an affidavit in support of such a warrant duely presented to a judicial Officer pursuant to a probable cause determination by a Judge. The Fourth Amendment of the United States Constitution provides that a search and seizure must be reasonable. A request for a judicial warrant must be supported by sufficient facts to meet the probable cause standard applied to an arrest. Probable cause does not exist for Petitioner's current detention pursuant to the Warrant for arrest of Alien (See Exhibit B), therefore the search and seizure that occurred on 05/02/2025 upon Petitioner's release is in violation of the Fourth Amendment of the United States Constitution.

COUNT THREE

Petitioner asserts that even if a removal proceeding is initiated, a litigation of the facts and issues of the underlying criminal conviction in the Immigration court has been proven and a final Judgement rendered by Immigration Judge that the crime for which Petitioner was convicted is not a crime of moral turpitude. In United States vs Lisette Lopez 75 F. 4 th(11 th cir 2023), the Chief Judge William Pryor, in his ruling stated "conspiring to launder money offense, 18 U.S.C.S 1956 (h) did not categorically involve moral turpitude." To qualify for a crime of moral turpitude the court determines whether a prior conviction qualifies as a crime involving moral turpitude in the Immigration context, Courts apply the categorical approach to determine whether the elements of the crime of conviction categorically fit within the federal definition of a crime involving moral turpitude. See George, 953 F.3d at 1304. This approach is consistent with the requirement of determining what elements the government would have had to prove beyond a reasonable doubt at trial. See Mathis, 579 U.S. 504. The Board of Immigration Appeals too holds "a conspiracy to commit an offense involves moral turpitude only when the underlying substantive offense is a crime involving moral turpitude." In reflores, 17 Dec.225. In United States v. Lisette Lopez 75 f 4 th (11 th Cir 2023), the Chief Judge William Pryor's opinion stated that " a violation of 18 U.S.C.S 1956 (a)(i)(B) is not categorically a crime of moral turpitude for Immigration purposes.

FAILURE OF DHS TO CONDUCT A CUSTODY REDETERMINATION HEARING FOR THE SECOND NOTICE TO APPEAR.

Petitioner challenged the original notice to appear and continues to do so on the second one. Petitioner argued that he is not properly included under § 1225 as an "arriving alien". Upon Petitioner's arrest in May /02/ 2025, a custody determination was conducted after which a decision was made to detain Petitioner. Upon the initiation of the second notice to appear, the DHS failed to conduct a custody determination (I-286) for the substituted NTA, therefore the DHS (Department of Homeland Security) has failed to adhere to the procedures it put in place. In other words, the process attendant to the issuance of the Second Notice to appear was constitutionally inadequate and violates Petitioner's due process rights under the Fifth Amendment. The DHS in avoiding the custody determination, failed to provide Petitioner with a meaningful hearing. Specifically, the statue mandates that the Petitioner can challenge and present evidence as to whether he is properly included as a person who is to be mandatorily detain under the statute.

THE SIX-MONTH BRIGHT LINE RULE IMPLICATIONS OF LORA COURT ON 1225

The Ninth circuit in Rodriguez v. robbins held that mandatory detention during removal proceedings under § 1225 (b) is limited to a reasonable period of time 804 F. 3d 1060 (9 th Cir 2015).

Petitioner is currently incarcerated in Calexico, California within the District of the ninth circuit. Of recent, many rulings within this circuit initiated by other detainees that are similarly situated as Petitioner have been granted and they have been afforded as bond hearing clearly in recognition of this six-month bright line rule effectively establishing the due process rights of aliens facing prolonged detention. Courts have found shorter lengths of mandatory immigration detention without a bond hearing to be unreasonable. See Perera v. Jennings, No. 21-cv04136-BLF, 2021 WL 2400981 (N.D.Cal. June 11,2021) (granting TRO and ordering individualized bond hearing for petitioner detained almost two months). The Ninth Circuit's decision to rule in favor of granting bond hearings aligns with the position taken by the first, Second and Third Circuits, in regard to the issue of noncitizens detained under 8 U.S.C § 1225(b), finding that "the due process Clause imposes some form of 'reasonableness' limitation upon the duration of detention……. under [section 1226 (c)]." Reid, 17 F.4 th at 7 (alterations in original) (citation omitted). Accord Black, 103 F.4th at 138 ("conclud[ing] that a noncitizen's constitutional right to due process precludes his unreasonably prolonged detention under section 1226 (c) without a bond hearing"); German Santos, 965 F.3d at 209-10 (holding that after Demore and Jennings, petitioners detained pursuant to § 1226(c) can still bring as applied challenges to their detention and that due process affords them a bond hearing once detention becomes unreasonable). Additionally, "essentially all district courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, 'will- at some point-violate the right to due process.'" Martinez v. Clark, No. C18-1669-RAJ-MAT, 2019 WL 5968089, at *6 (W.D Wash. May 23,2019) (citation omitted), report and recommendation adopted, 2019 WL 5962685 (W.D.Wash. Nov.13,2019). The analysis in the Second circuit in Lora vs Shanon, provides some insight into how Courts have addressed the issue around mandatory detention as it pertains to Lawful permanent residents, as is relevant here. In that case, Alexander Lora, a lawful permanent resident filed a writ of habeas corpus because he was detained pursuant to section 1226(c) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1226(c), which mandates detention, while removal proceedings are pending, of non-citizens who have committed certain criminal offenses. The Court held that reading section 1226(c) to permit indefinite detention raises significant constitutional concerns, and to avoid them, we construe the statute to contain an implicit temporal limitation on the length of time a detainee can be held before being afforded an opportunity to seek bail. The court reasoned that "while the lawful permanent resident (LPR) was subject to mandatory detention under 8 U.S.C.S. § 1226 (c), mandatory detention for longer than six months without a bond hearing affronted due process". Petitioner is currently detained in the ninth circuit..... The Ninth Circuit has expressly held that "arriving aliens' who are subject to mandatory detention under the literal terms of Section 1225 (b) must nonetheless be afforded a bond hearing if their detention lasts longer than six months. See Rodriguez II, 715 F.3d at 1144 ("to the extent detention under § 1225(b) is mandatory, it is implicitly time-limited"); Rodriguez v. robbins, 804 F.3d 1060, 1084 (9 th Cir. 2015) (adhering to the holding of Rodriguez II as to § 1225(b))

A lot of Judges in the Second circuit have reached the result of a six-month brightline rule by extending Lora to petitioners who are detained pursuant to section 1225(b). See, e.g., Ricketts, 2016 U.S. Dist. LEXIS 174751, 2016 WL 7335675, at *4(Schofield, J.) ("post-Lora, detention pursuant to § 1225(b) must be construed to contain a reasonableness limitation of six months'); Arias, 2016 U.S.Dist. LEXIS 91687, 2016 WL 3906738, at *4 (Abrams, J) (noting that §1225(b) " must be construed to avoid due process concerns" and holding that "a six-month limit as outlined in Lora is the appropriate limiting principle in this circuit"); Morris v. Decker, 2017 U.S dist. LEXIS 72146, 2017 WL 1968314, at *4 (S.D.N.Y. May 11, 2017) (Caproni, J.) ("[T]his Court joins Arias, Ricketts, and Rodriguez II" in holding that the detention of a lawful permanent resident pursuant to § 1225(b) for longer than six months, without a bond hearing ,"violates due process."); accord Heredia v. Shanahan,245 f. supp. 3d 521, 526-27 (2017)(Wood, j.). 6 As the Arias court explained, "the discretionary parole system available to § 1225 (b) detainees is not sufficient to overcome the constitutional concerns raised by prolonged mandatory detention." 2016 U.S. Dist. LEXIS 91687, 2016 WL 3906738, at *10 (quoting Rodriguez II, 715 F.3d at 1144).

The petitioners in Lora, Ricketts, Arias, Morris, and Heredia- unlike Tireus- were lawful permanent residents (LPRs) who, because of their criminal conduct, were deemed to be "seeking admission' when they returned from trips abroad, see 9 U.S.C. § 1101(a)(13)(C) (listing the circumstances under which an LPR may be "regarded as seeking an admission into the United States for purposes of the immigration laws"), and were therefore detained pursuant to section 1225(b) during removal proceedings. Furthermore, most of those cases reasoned that LPRs seeking readmission are entitled to a higher degree of constitutional protection than arriving aliens with no prior ties to the United States, see, e.g., Arias, 2016 U.S. Dist. LEXIS 91687, 2016 WL 3906738, at *4-8.

Petitioner's Continued detention without a Bond Hearing is unreasonable. Reasonable time for removal proceedings and the practical implications of applying a Six-month bright-line rule to ensure equal protection principles.

Congress adopted § 1226 (c) in an effort to strengthen and streamline the process of removing deportable criminal aliens against a backdrop of wholesale failure by the Immigration and Naturalization Service (INS) to deal with increasing rates of criminal activity by aliens and evidence that one of the major causes of the INS' failure to remove deportable criminal aliens was the agency's failure to detain those aliens during their removal proceedings. When the constitutionality of § 1226 (c) was challenged in the Demore decision, statistics showed that removal proceedings were completed within 47 days in 85 percent of cases in which aliens were mandatorily detained. See Demore, the Supreme court reasoning that § 1226(c) "authorize[s] mandatory detention only for the 'limited period of [the non-citizen's] removal proceedings,' which the court estimated ' lasts roughly a month and a half in the vast majority of cases in which it is invoked , and about five months in the minority of cases in which the alien chooses to appeal' his removal order to the [Board of Immigration Appeals ("BIA")]. Id. At 950 (quoting Demore, 538 U.S. at 529). The United States Supreme Court emphasized the relative brevity of detention in most cases and concluded that detention during removal proceedings was constitutionally permissible. While the United States Supreme has held that the government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings, it has made clear that the indefinite detention of a non-citizen raises serious constitutional concerns in that freedom from imprisonment – from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects. Following that guidance from the Supreme court, the United States Court of Appeals for the Second circuit holds that "in order to avoid significant constitutional concerns surrounding the application of 8 U.S.C.S. § 1226(c), it must be read to contain an implicit temporal limitation. In reaching that result, the Second Circuit joins every other circuit to have considered that issue. Specifically, the second Circuit joins the United States Court of Appeals for the Ninth Circuit in holding that mandatory detention for longer than six months without a bond hearing affronts due process." Lora v Shanahan 804 F.3d 601 (Second circuit 2015).

The approach adopted by the United States Court of Appeals for the Ninth Circuit, is to apply a bright-line rule to cases of mandatory detention where the government's statutory mandatory detention authority under 8 U.S.C.S. § 1226 (c) is limited to a six-month period, subject to a finding of flight risk or dangerousness. The United States Court of Appeals for the Second circuit believes that, considering the relevant United States Supreme Court precedent, the pervasive confusion over what constitutes a reasonable length of time that an immigrant can be detained without a bail hearing, the current immigration backlog and the disastrous impact of mandatory detention on the lives of immigrants who are neither a flight risk nor dangerous, the interests at stake in the Second Circuit are best served by the Ninth Circuit's bright-line approach. See "The pervasive inconsistency and confusion exhibited by district courts in the United States Second Circuit when asked to apply a reasonableness test on a case-by-case basis weighs, in favor of adopting an approach that affords more certainty and predictability. Notably, the United States Supreme Court has recognized that bright-line rules provide clear guidance and ease of administration to government officials. Adopting the United States Court of Appeals for the Ninth Circuit's six-month rule for detention under 8 U.S.C.S § 1226(c) ensures that similarly situated detainees receive similar treatment. Such a rule avoids the random outcomes resulting from individual habeas litigation in which some detainees are represented by counsel, and some are not, and some habeas petitions are adjudicated in months and others are not adjudicated for years." Lora v Shanahan, 804 F.3d 601 (Second circuit October 2015).

Given that it is past six months detention has exceeded constitutional reasonableness such that a bond hearing is required by due process. Petitioner's length of detention absent a hearing has become unreasonable such that due process requires the government to promptly provide Petitioner a bond hearing at which the Government bears the burden of supporting continued detention without bond.

COUNT FOUR

The conviction does not qualify as an aggravated felony for Immigration purposes. The crime for which Petitioner was charged on the NTA (Notice to appear) is not a substantive money laundering count and therefore should not be considered an aggravated felony. Petitioner asserts that the crime he was charged with does not put him in the category of people considered to be a danger to society. To make a determination whether a person is a danger to the community of the United States, Courts look to see if the elements of the offense bring it "within the ambit of a particularly serious crime." In determining whether a crime is particularly serious, the essential key is whether the nature of the crime is one which indicates that the non-citizen poses a danger to the community. The focus here is on the N-A-M inquiry which requires adjudicators to determine whether the element of the offense the Petitioner was charged with bring it within the ambit of a serious crime.

ANALYSIS OF THE CRIME (TRIAL ANALYSIS)

Respondent was charged with 18 U.S.C & 1956 (h) Conspiracy to commit money laundering

Count two reads $230 victim "U.E"- wired funds into Naji's MS Products Services account at Bank of America [redacted] – July 2,2014

Count three reads $75,000 " Naji having obtained a cashier's check from his MS Products and Services account at Bank of America [redacted] deposited it into Morgan's account at JP Morgan Chase [redacted]" in violation of 18 U.S.C & 1956 (a)(1)(B)(i) and 2. The government presented victims of various other purported fraudulent schemes but failed to present a victim for the alleged wire transfer of $230,000. The government failed to identify the victim of the crime nor did the government identify who registered the entity "U.E". The government was unable to demonstrate that an 'identifiable victim suffered a "pecuniary loss' as an indirect and proximate result of Count 1- the wire in the amount of $230,000. The generic crime of money laundering requires that the government identifies the 'specified unlawful activity' and therefore the "nature, location, source, ownership and control of the proceeds. The theory of the government's case is a perfunctory wire transfer of $230,000 from an unidentified entity, "U.E", which was wired into an account which does not belong to Respondent. Upon a review of the history of transactions of the account holding the $230,000 for the month of July 2014, the bank statement will reveal there was no transaction suggesting that $75,000 was withdrawn from that account much less any other evidence that ties the $75,000 from Count 2 to the account in count 1 for M S Products and Services, the Bank of America account ending in [redacted]. The government therefore failed to prove a nexus between the proceeds from Naji's M. S Products and Services account at Bank of America [redacted] and Morgan's account at JP Morgan Chase (-8365). Simply put, the Government is required to prove the 'proceeds' element. The Supreme Court case, United States vs. Santos 553 U.S 507, 128 S C T 2020, 170 LED 2d 912, 2008 US LEXIS 4699 interpreted 'proceeds' as "profits", reasoning on the issue of proceeds that interpreting it as "profits" would eliminate what the Justices described as a "merger problem". Justice Breyer in his Opinion in describing the merger problem stated, "Generally speaking any specified unlawful activity an episode of which includes transactions which are not elements of the offense and in which a participant passes receipts onto someone else, would merge with money laundering. Naji, a cooperating witness for the government whom Respondent had never met nor had any interactions with, testified at trial to controlling the M. S products and Services account in which the $230,000 was wired into which represents the 'fraudulent activity' (See wire fraud, in violation of 18 U.S.C & 1343 on the indictment). During Naji's testimony he described organizing and managing different fraudulent schemes and making deposits and withdrawals from the account evincing the 'merger problem" highlighted by the Santos court. Justice Breyer suggested in Santos that the merger problem could be resolved by holding that "the money laundering offense and the underlying offense that generated the money (the fraudulent crime or the underlying criminal activity) must be distinct in order to be separately punishable". In other words, the anterior crime or fraudulent crime which generated the alleged $230,000 representing the charged Count 1 in the indictment, must be separate and distinct from the subsequent transactions representing the act or conduct of laundering. All the government evidence shows is a mere unexplained wire transfer of $230,000, the government unable to prove the "nature, the-source or origin of these funds" failed to prove the proceeds element consistent with the ruling in Santos. Furthermore, the government failed to prove a nexus between the $230,000 representing Count 2 in M.S products and Services and Count 3, Morgan's account, therefore the government was unable to prove subsequent transactions designed to conceal the source of these proceeds. The government inability to explain the funds creates the first challenge and the government's inability to explain how the proceeds alleged to have been deposited into Morgan's account were gotten from the account controlled by Naji, the M S Products and Services account presents the second challenge. Arguing arguendo that the government carried both of its burden in the first and second step, the government faces a third challenge in order to prevail under the theory of money laundering under the concealment, the government would have to prove subsequent transactions designed to conceal the source of those proceeds. See United States v. Esterman, 324 f. 3d 565 (7 th cir 2003) (Defendant claimed that the government did not prove that he attempted to conceal or disguise the stolen funds because he "merely transferred the funds to a separate account and then spent them in an open and notorious way. The court of appeal agreed stating that Defendant made no effort to disguise or conceal either his withdrawals from the joint account or the destinations of the funds. There was nothing complicated about his deposition of the funds- he simply made deposits into other bank accounts that were correctly identified and engaged in some retail transactions. Highly irregular transfers calculated to evade detention were absent." In the context of money laundering, the United States Court of Appeals for the Seventh circuit has tried to maintain some separation between the initial transaction from which illegal proceeds were derived and further transactions designed to conceal the source of those proceeds. The Court in echoing the sentiment of the Santos court, stressed that the mere transfer and spending of funds is not enough to sweep conduct within the money laundering statute, instead subsequent transactions must be specifically designed to hide the provenance of the funds involved. "Under laws of the United States court of Appeals for the Seventh circuit both distinct transactions and deliberate concealment must be shown to support a money laundering conviction under 18 U.S.C.S & 1956 (a)(1)(b)(i). See United States v. Esterman, 324 f. 3d 565 (7 th Cir 2003). In the ruling in that case, the 7 th circuit concluded that "several cases where money laundering has been established have in common the existence of more than one transaction, coupled with either direct evidence of intent to conceal or sufficiently complex transactions that such an intent could be inferred. In contrast, the cases in which money laundering charges have not succeeded are typically, 'simple transactions' that can be followed with 'relative ease', or transactions that involve nothing but the initial crime. In sum, it is important, even if difficult at times, to ensure that the money laundering statute not turn into a "money spending statute".

CATEGORICAL APPROACH

The Supreme Court in Taylor v. United States adopted the "categorical approach". The Court guides us to look only to the statutory definitions, i.e., the elements, of a defendant's offense, and not the particular facts underlying the conviction. If the relevant statute has the same elements as the "generic crime", then the conviction is a "categorical match". However, when the statute sweeps more broadly than the generic crime, a conviction under that law cannot be a 'categorical match'. See United States vs Lisette Lopez, 75 F.4t 1337 (August 2023).- finding that the knowledge element in 1956(h) is not a categorical match for the alternative sets of elements in a substantive money laundering statute and therefore is broad. Furthermore, the Lisette court found that the least culpable conduct was structuring a transaction that involves proceeds of unlawful activity to avoid a reporting requirement, under subpart (ii), constitutes the least culpable conduct prohibited by & 1956(a)(1)(B). The court held that "the structuring and reporting of financial transactions has no inherent moral significance".

CIRCUMSTANCE-SPECIFIC FINDING

Courts are required as the Santos court advises, to examine that 'single instance' of unlawful activity which would have deprived a 'victim' of "proceeds". The court then examines the circumstances and the underlying facts which can only be accomplished by a determination of the "proceeds' element. The goal in a circumstance-specific finding is the same process a jury will engage in making a jury special finding. This process has to be tied to a victim of the fraudulent crime (single-instant of unlawful activity), the origin or source of proceeds of the specified unlawful activity. The circumstance specific finding is utilized to make a determination about the amount of funds laundered for sentencing purposes as well as for forfeiture actions. In other words, this circumstance-specific inquiry is instructive in the sentencing of a defendant as the defendant is sentenced based upon the amount of funds laundered. See Chowdhury v INS 249 F.3d 970 (9 th Cir 2001) (" hold that the sentencing judge must look to the amount of money that has been laundered rather than the total loss to the victim in calculating the sentence. Moreover, the guidelines for money laundering, which use the value of the funds language, measure harm differently than the guidelines for wire fraud which use the loss to the victim language")

RESTITUTION ORDER AND FORFEITURE ACTION

There is sufficient "conflicting evidence" to justify looking past the restitution and forfeiture orders. There are undisputed facts that undermine the restitution order's reliability as a measure of amount of funds laundered. The government submits a forfeiture action subject to the provisions of 21 U.S.C 7 853(p), as incorporated by 18 U.S.C & 982(b)(1). Because respondent has demonstrated that he cannot be deemed to have committed an aggravated felony under 101(a)(43)(D) nor 101(a)(43)(M) of the Act, for violating "an offense described in section 1956 of title 18 (relating to laundering of monetary instruments)....{in which} the amount of the funds exceeded $10,000).When an person is charged with having committed an aggravated felony conviction under Section 101 (a)(43)(D) of the Act, the "amount of the funds" involved in the underlying money laundering offense is a "circumstance-specific" factual question. See Varughese v. Holder 629 F.3d

272,274-75 (2d Cir.2010) (relying on Nijhawan v. Holder, 557 U.S 29 (2009); See generally Munez-Morales v. Att'y Gen of US., 379 Fed. Appx.210, 215 (3d Cir.2010) (same). The amount of funds refers to the amount of funds laundered by respondent in connection with the offense "described in section 1956 of title 18" of which he or she was convicted. See Chowdhury v INS 249 F.3d 970 (9 th Cir 2001) (" Cases interpreting U.S Sentencing Guidelines manual & 2S1.1(b)(2), hold that the sentencing judge must look to the amount of money that has been laundered rather than the total loss to the victim in calculating the sentence. Moreover, the guidelines for money laundering, which use the value of the funds language, measure harm differently than the guidelines for wire fraud which use the loss to the victim language". Because Respondent was not connected to the underlying offense and the government could not prove the proceeds element, let alone can the government demonstrate any connection between Respondent and any of the alleged victims nor can the government carry its burden of proving any laundered money tethered and traceable to the conduct of conviction (the two counts) can be connected to the Respondent. In other words, the record cannot establish that the restitution order was tethered and traceable to Respondent' conduct (relating to engaging in monetary transactions in property derived from specific unlawful activity).

FAILURE TO INSTITUTE A JURY SPECIAL FINDING

The penalties for money laundering are designed to be imposed only for the removal of profits from criminal activity which permit the leveraging of one criminal activity into the next. See distinction-between money laundering and Fraud in Chowdury v INS 249 F.3d 970 (2001) (the difference in statutory language makes sense when one considers the different injuries captured by money laundering and mail fraud statutes. The harm caused by money laundering is that it makes it more difficult to detect and prosecute criminal activity if the criminal hides the proceeds of that activity. The injury is suffered by the public fisc and the degree of harm is best measured by looking at the amount of money that has been hidden. Mail fraud, on the other hand, injures the individual who is defrauded and the best measure that harm is the total loss to the victim. Again, at sentencing, the government had yet another opportunity to present a victim; prove the 'single instance of specified unlawful activity', which resulted in the laundering of the proceeds. The issue of the "merger problem" is also essentially a sentencing issue, therefore resolving the issue posed in Santos between proceeds and receipts invariably affects the sentencing of defendant charged under a money laundering statute. The government conveniently avoided a proximate-cause analysis (circumstance specific finding) to determine the "proceeds element" which, if conducted, would have aided in the determination of the amount of funds laundered and would have formed a basis to make a determination of the restitution and the forfeiture amount.

Because the government knew that it could not carry this burden it failed to bring the Jury to make a special finding for sentencing purposes and failed to return a special verdict of forfeiture which would have returned a 'special forfeiture finding that any of the funds was traceable to the respondent.

Therefore, the DHS cannot establish a connection between Respondent and the "amount of funds" referred to in the counts of conviction. Therefore, given that there is no way to prove a connection between Respondent and any of the funds the government cannot carry its burden by sufficiently demonstrating under a clear and convincing standard that Respondent laundered money exceeding the $10,000 threshold set by section 101(a)(43)(D) of the Act.

THE N-A-M ANALYTICAL FRAMEWORK PRECLUDES THE APPLICATION OF A CIRCUMSTANCE-SPECIIFC ANALYSIS FOR THE DETERMINATION OF IMMIGARTION-RELATED CONSEQUENCES WHEN THE UNDERLYING CRIMINAL CONVICTION CHARGED IN THE NOTICE TO APPEAR IS A CHARGE UNDER 1956(H).

Matter of N-A-M requires adjudicators to conduct a two-step analysis in determining whether a noncitizen committed a serious crime by asking 1) whether the elements of the offense bring it within the ambit of a particularly serious crime; and if so, 2) whether the individual facts and circumstances confirm that the offense is particularly serious. Accordingly, adjudicators must begin their analysis by evaluating the elements of the noncitizen's offense as a threshold matter. Only if those elements suggest the crime may be particularly serious for purposes of removal can the adjudicator proceed to evaluate the facts of the case. In other words, Matter of N-A-M instructs that an Immigration judge may not consider individual facts and circumstances for Immigration purposes until the Immigration judge has determined that the element of the offense suggests it may be a particularly serious crime. The Board of Immigration Appeals has repeatedly reaffirmed this view, permitting adjudicators to consider the facts of a noncitizen's offense only after first finding that its elements potentially bring it within the ambit of a particularly serious crime. See United States vs Lisette Lopez 75 F.4 th 1337. Also see David Annor v Merrick b. Garland 95 F.4 th 820,2024, U.S App. LEXIS 6261 No.23-1281 March 15,2024, decided. In this case which was decided post the Lisette ruling in the 11 th circuit, the defendant was charged with Conspiracy to commit money laundering, in violation of 18 U.S.C § 1956(h). In May 2021, Annor pled guilty, admitting that he (1) with "at least one other person entered into......an agreement to commit [a] substantive money laundering offense", (2) "knew that the money laundering proceeds had been derived from an illegal activity", and (3) "knowingly and willfully became a member of that conspiracy". As relevant to Respondent's case, this reasoning supports the amended notice to appear filed on 09/29/2025 which seeks to make a determination of guilt on the basis of a substantive money laundering statute as distinguishable from a Conspiracy under 1956 (h). The Immigration judge found that Annor's conviction was a 'particularly serious crime". The IJ concluded that under Matter of N-A-M, 24 I.& N. Dec.336 (BIA 2007, the offense fell "within the ambit of it being a particularly serious crime due to the serious nature of the offense, the amount of loss, the vulnerable group of individuals that were targeted, and the fact that it was a federal conviction". JA 40-41. The IJ then found that the amount of loss, the length of the scheme, and its effects on multiple, vulnerable victims demonstrated that Annor's crime was, in fact, particularly serious. Annor appealed and the BIA affirmed. The BIA found that the elements of 18 U.S.C § 1956(h) "which included knowingly engaging or attempting to engage in a monetary transaction in criminally derived property that is of a value greater than $10,000 and is derived from specified unlawful activity, potentially brings it into a category of particularly serious crimes." JA 3- precisely the sort of inquiry triggered by Respondent's current amended notice to appear filed on 09/29/2025. In the Annor case, the BIA affirmed the IJ's findings on "the facts and circumstances of the offense, the substantial amount of money involved in the criminal scheme, and the level of deceit involved." JA 3-4. The Fourth circuit, consistent with the reasoning and guidance in the Lisette Court, held that the BIA misapplied its own precedent, both by relying on the elements of the wrong statute and by failing to assess whether the nature of Annor's offense indicates that he presents a danger to the community. The Court vacated the BIA's decision and remanded for further proceedings. The Court in its ruling explained "First, both the IJ and the BIA failed to properly analyze the elements of a conspiracy to commit money laundering. In its established precedent, Matter of N-A-M-, the BIA stated that 'the individual facts and circumstances of the offense are of no consequence' unless 'the elements' of the offense.... potentially bring the crime into a category of particularly serious crimes." 24 I.& N.Dec. at 342. As our sister circuits have held, N-A-M requires adjudicators to conduct a two-step analysis, asking; (1) whether the elements of the offense bring it "within the ambit of a particularly serious crime"; and if so, (2) whether 'individual facts and circumstances' confirm that the offense is particularly serious. At least two courts have vacated and remanded BIA decisions in cases where the agency failed to properly evaluate the elements of the offense at the first step of the N-A-M inquiry. See Ojo, 25 F.4 th at 165; Luziga 937 f.3d at 254. In Luziga, the Third Circuit vacated a particularly serious crime finding after the IJ "failed to first consider the elements of (the) offense, "and the BIA "stated that it would consider the 'element' of Luziga's offense but listed as 'elements' specific offense characteristics such as loss amount." 937f.3d at 253-54. And in Ojo, the Second Circuit vacated a particularly serious crime finding where the IJ merely observed that the offense at issue was "a crime against persons" without considering its elements at all, and the BIA affirmed that finding without further analysis. 25f. 4 th at 165-66. In both cases, the court recognized that N-A-M imposes a specific two-step framework and held that the BIA failed to follow that framework when it did not correctly evaluate the elements of the offense at the first stage of that process. See Luziga, 937 f. 3d at 254; Ojo,25 f.4 th at 167-68.

COUNT FIVE

Petitioner is not a flight risk. While in BOP (Bureau of Prison) custody, Petitioner was eligible under the FSA (First Step Act) to earn 'time credits' due to his active participation in rehabilitative programming earning over 1000 days of 'earned time credit' resulting in the reduction of his sentence by one year and a transfer to a Halfway house in Tampa Florida. Petitioner was given a ticket to the Halfway house in Florida on the14th of August 2024. Petitioner was allowed to fly by himself and checked in at the Halfway house in Tampa, florida with no incidents. Petitioner spent over 7 months at the Halfway house before an eventual arrest pursuant to an 'Executive Order' which resulted in his reincarceration. In addition, Petitioner has a residence where he has resided since 2001 which has been approved by a probation Officer, Danielle Huck, in Dallas for his supervised release.

COUNT SIX

DELAYS IN REMOVAL PROCEEDINGS AND LIKELIHOOD REMOVAL PROCEEDINGS WILL RESULT IN A FINAL ORDER OF REMOVAL.

Throughout the process Petitioner has raised legitimate defenses to his removal, "and such challenges to his removal cannot undermine his claim that detention has become unreasonable. "Liban M.J.,367 F. Supp.3d at 965 (citing Hernandez v. Decker, 2018 U.S. Dist. LEXIS 124613, 2018 WL 3579108, at *9 (S.D.N.Y. July 25, 2018)). Further anticipated delays more than likely will result from the appeal of the adverse decisions by the Immigration Judge which Petitioner has every right to appeal to the BIA and then to the Ninth Circuit court of appeals as earlier discussed. See "Thus this factor only weighs against a petitioner when he "has substantially prolonged his stay by abusing the processes provided.'" but not when he "simply made use of the statutorily permitted appeals process." Hechavarria v. Sessions, 891 f.3d 49, 56n .6 (2d Cir.2018) (quoting Nken v. Holder, 556 U.S. 418, 436, 129 S.Ct.1749, 173 L.Ed.2d 550 (2009). On the other hand, unreasonable delays caused by immigration courts or government officials weigh against a respondent. Sajous, 2018 U.S DIST.LEXIS 86921, 2018 WL 2357266, at *11. Petitioner was arrested on 05/02/2024 and after a delay of over one month was 2 weeks before Petitioner was finally transferred to Calexico California where an initial master hearing was held.

The government then decides, 150 days after Petitioner was arrested, to substitute the charges on Petitioner's notice to appear without conducting a custody determination of Petitioner. Therefore, this action should weigh heavily against the government.

Additionally, the Court is supposed to consider "the likelihood that the removal proceedings will result in a final order of removal." Liban M.J., 367 f.Supp.3d at 965. "In other words, the Court considers whether the noncitizen has asserted any defenses to removal." Martinez, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *10 (citing Sajous, 2018 U.S. Dist.LEXIS 86921, 2018 WL 2357266, at *11). "Where a noncitizen has not asserted any grounds for relief from removal, presumably the noncitizen will be removed from the United States, and continued detention will at least marginally serve the purpose of detention, namely assuring the noncitizen is removed as ordered." 2019 U.S. Dist. LEXIS 197895, [WL] at *10. "But where a noncitizen has asserted a good faith challenge to removal, the categorical nature of the detention will become increasingly unreasonable." Id. (quotations omitted). Given the current posture of Petitioner's removal proceedings, there is enough information available to predict that Petitioner's removal proceedings will not result in a final order of removal in the reasonably foreseeable future. Petitioner has asserted multiple grounds for relief from removal and there is a substantial likelihood that the removal proceedings will not result in a final order of removal. The Court should therefore find this factor in favor of Petitioner.

Likely Duration of future detention

At this juncture, any estimate as to how long Petitioner's detention will continue requires a degree of speculation. Even so, the fact that Petitioner has multiple avenues for challenging his removal proceeding including high likelihood that given Petitioner will continue to litigate and seek the reversal of his conviction. Furthermore, based on the facts and circumstances presented herein regarding the underlying criminal conduct will result in the reversal of his conviction, which has not been adjudicated, on the merits. (See Analysis of the crime below). One can glean context from historical data regarding the potential future detention of Petitioner. Petitioner has filed 3 reliefs with the Immigration Judge namely, an Asylum application, a 212 (h), a cancellation of removal. Given that the Immigration Judge will have to independently adjudicate these reliefs, assuming there is an unfavorable decision, Petitioner can seek a review with the BIA and subsequently with the 9 th circuit court of Appeals and then the Supreme Court of the United

States on all the issues raised to date, especially on the issue about whether Petitioner should have been regarded as being inadmissibility where there is a conflict in rulings between the Second and Ninth Circuit. See U.S. Court of Appeals for the Ninth Circuit, FREQUENTLY ASKED QUESTIONS, www.ca9.uscourts.gov/content/faq.php (last accessed Sept. 6, 2024; addressing anticipated timelines for civil appeal from notice of appeal until final decision).

CRIMINAL HISTORY OF PETITIONER

Petitioner has been in the United States of America since August 1997 and the only conviction on his background check will reveal the charge on the notice to appear 8 U.S.C.S § 1956 (h). The Analysis of the crime below will effectively highlight the nature of the circumstances surrounding the alleged criminal conduct against Petitioner. There is no evidence of bad conduct or incident reports against Petitioner while he has been detained. As a matter of fact, throughout Petitioner's incarceration for the alleged criminal offense there is no record whatsoever of bad conduct while he was incarcerated.

CONCLUSION

Petitioner has demonstrated through the foregoing.that on the merits of Petitioner's arguments, there is a significant likelihood of prevailing in the removal proceedings initiated by the DHS (Department of Homeland Security). Petitioner's underlying offense is not an offense that would put Petitioner in a category of persons considered to be dangerous to society and, based on the facts presented in the foregoing, the offense is therefore not an aggravated felony. Petitioner is not a flight risk as demonstrated by the fact that he travelled from prison to the Halfway House without incident. The government has failed to show a legitimate governmental purpose for Petitioner's continued detention at the Imperial Detention Facility in custody of Respondents.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1) Assume jurisdiction over this matter.
2) Grant Petitioner a Writ of Habeas Corpus directing the Respondent to immediately release Petitioner from custody.
3) Enter a Temporary Restraining order from moving Petitioner from his current custody
4) Enter an Injunctive relief enjoining Respondent from further unlawful detention of Petitioner
5) Grant any other relief that this Court deems just and proper.
6) Declare based on the facts presented herein that Petitioner's underlying crime is not an aggravated felony.
7) To enjoin the Warden Jeremy Casey, Respondents, along with their agents, employees, successors, attorneys, and all persons acting in concert with them, from removing Petitioner from the United States of America without notice and an opportunity to be heard. Additionally, to enjoin Warden Jeremy Casey and Respondents from removing Petitioner from Imperial Detention facility to another Detention facility without notice and opportunity to be heard.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted,

[redacted]

OKechukwu 'Desmond' Amadi

12/05/2025