Chief Magistrate Judge Theresa L Fricke

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IVAN CHEKHOVSKII, Petitioner, v. BRUCE SCOTT, *et al.*, Respondents.	Case No. 2:25-cv-02550-TLF FEDERAL RESPONDENTS'[1] RETURN Noted for Consideration: January 6, 2026

I. INTRODUCTION

Petitioner Ivan Chekhovskii has failed to demonstrate that his mandatory immigration detention pursuant to 8 U.S.C. § 1225(b) has become unconstitutionally prolonged. U.S. Immigration and Customs Enforcement ("ICE") has lawfully detained Petitioner for approximately eighteen months pursuant to Section 235(b) of the Immigration and Nationality Act ("INA"), codified at 8 U.S.C. § 1225(b). Petitioner is an arriving alien who has been ordered removed by the immigration court after denying his applications for relief from removal. The Board of Immigration Appeals ("BIA") dismissed his administrative appeal of the immigration

[1] Respondent Bruce Scott is not a Federal Respondent and is not represented by undersigned counsel.

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judge's order. Petitioner's last chance for avoiding removal is his petition for review ("PFR") pending before the Ninth Circuit.

Petitioner seeks his immediate release or, in the alternative, a court-ordered individualized bond hearing due to the length of his detention. These requests should be denied. The Supreme Court has considered whether 8 U.S.C. § 1225(b) imposes a time-limit on the length of detention and whether such noncitizens detained under this statutory authority have a statutory right to a bond hearing. *See Jennings v. Rodriguez*, 583 U.S. 281, 297-303 (2018). The Supreme Court held that "nothing in the statutory text [of 8 U.S.C. § 1225(b)] imposes any limit on the length of detention" nor "says anything whatsoever about bond hearings." *Id.*, at 297. The Supreme Court's decision in *Thuraissigiam* reinforced this holding. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020). Therein, the Supreme Court "reiterated th[e] important rule" that a noncitizen seeking initial entry to the United States "has no entitlement" to *any* legal rights, constitutional or otherwise, other than those expressly provided by statute. *See* 591 U.S. at 107, 138-39; *see also id.*, at 107 ("Congress is entitled to set the conditions for an alien's lawful entry into this country and that, as a result, an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause.").

Accordingly, Federal Respondents respectfully request that the Court deny Petitioner's Petition.

II. FACTUAL BACKGROUND

Petitioner is a native of Kazakhstan and citizen of Russia who, on or about June 3, 2024, applied for admission into the United States at the Calexico, California Port of Entry. Pet., ¶ 21; Andron Decl., ¶¶ 3-4;[2] Lambert Decl., Ex. A, Form I-213. He presented a Russian passport to

[2] The Andron Declaration contains incorrectly indicates that Petitioner applied for admission to the United States in 2023. Andron Decl., ¶ 4. This is a typo. The correct year is 2024.

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Border Patrol and requested asylum. Andron Decl., ¶ 4. He was processed as an arriving alien subject to expedited removal proceedings. Andron Decl., ¶¶ 4-7; Lambert Decl., Ex. B, Notice and Order of Expedited Removal; *see also* 8 U.S.C. § 1225(b)(1)(A)(i) (requiring an immigration officer to "order the alien removed from the United States without further hearing or review" after determining that the noncitizen is inadmissible pursuant to 8 U.S.C. § 1182(a)(7)). However, U.S. Citizenship and Immigration Services ("USCIS") subsequently conducted a credible fear interview and Petitioner obtained a positive credible fear finding. Pet., ¶ 21; *see also* 8 U.S.C. § 1225(b)(1)(A)(ii). As a result, DHS initiated immigration proceedings by issuing a notice to appear, charging Petitioner as inadmissible pursuant to 8 U.S.C. § 1182(a)(7)(A)(i)(I). Andron Decl., ¶ 7; Lambert Decl., Ex. C, Notice to Appear. Petitioner's initial hearing before an immigration judge was set for July 15, 2024

In October 2024, Petitioner applied for asylum with the immigration court. Andron Decl., ¶ 8; Pet., ¶ 23. On March 10, 2025, an immigration judge denied Petitioner's applications for relief from removal and ordered Petitioner removed to Russia. Dkt. No. 1-1, at 34-36, Order of the Immigration Judge; *see also* Dkt. No. 1-1, at 43-57, Oral Decision of the Immigration Judge. Petitioner appealed this removal order to the Board of Immigration Appeals ("BIA"), which dismissed the appeal on September 5, 2025. Dkt. No. 1-1, at 37-42, BIA Decision. Petitioner filed a petition for review ("PFR") with the Ninth Circuit on September 25, 2025. *Chekhovskii v. Bondi*, No. 25-6051 (9th Cir.). Pursuant to the Ninth Circuit's General Order 6.4(c), Petitioner's removal has been stayed. *Id.*, Dkt. No. 7.1.

Accordingly, Petitioner is not subject to a final order of removal and is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(1).

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III. LEGAL STANDARD

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day." *Thuraissigiam*, 591 U.S. at 125 n. 20. Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions.

To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

A. ICE's continued detention of Petitioner is mandated by statute.

Petitioner's detention is statutorily mandated as he is subject to expedited removal procedures under the procedures set forth in 8 U.S.C. § 1225(b)(1). Petitioner applied for admission to the United States at a port of entry. He is therefore considered an arriving alien and is mandatorily detained pursuant to 8 U.S.C. § 1225(b)(1). 8 C.F.R. § 1001.1(q) ("Arriving alien" defined as "an applicant for admission coming or attempting to come into the United States at a port-of-entry" and "remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked."); 8 C.F.R. § 1003.19(h)(2)(i)(B) (immigration judge lacks jurisdiction to redetermine custody of arriving aliens in removal proceedings); 8 U.S.C. § 1225(b)(1).

The relevant statutory provision states that in the case of an arriving alien seeking asylum, "[i]f the officer determines at the time of the interview that an alien has a credible fear or persecution . . . the alien shall be detained for further consideration of the application for asylum."

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8 U.S.C. § 1225(b)(1)(B)(ii). "Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." 8 U.S.C. § 1225(b)(l)(B)(iii)(IV); *see also* 62 Fed. Reg. 10,312, 10,315 (Mar. 6, 1997) ("[t]he provisions of § 235.3(b)(2)(iii) require[e][] detention of all aliens subject to the expedited removal provisions and issued a removal order"); *Matter of M-S-*, 27 I. & N. Dec. 509, 509 (A.G. 2019) ("Generally, aliens placed in expedited proceedings must be detained until removed. INA § 235(b)(1)(B)(iii)(IV).").

Although an immigration judge denied Petitioner's application for asylum, and the BIA dismissed the appeal of the removal order, because Petitioner has filed a PFR and a stay of removal is in place, he remains subject to detention under 8 U.S.C. § 1225(b)(1). Congress has determined that all noncitizens subject to Section 1225(b) must be detained. Regardless of whether a noncitizen falls under Section 1225(b)(1) or (b)(2), the sole means of release is "temporary parole from § 1225(b) detention 'for urgent humanitarian reasons or significant public benefit,' § 1182(d)(5)(A)." *See Jennings v. Rodriguez*, 583 U.S. 281, 283 (2018).

Petitioner asks this Court to either order his immediate release or, in the alternative, an individualized bond hearing. Pet., Prayer for Relief. But the statutory authority which Petitioner is detained under does not provide for the relief requested in the Petition. *See Jennings*, 583 U.S. at 297-303. As the detention authority does not afford Petitioner a right to release or any of the relief requested, the Court should thereby reject his habeas claim and dismiss the Petition in its entirety.

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B. Petitioner's continued detention without a court-ordered bond hearing is constitutional.

Petitioner has not shown that he is in immigration custody in violation of the Constitution, law, or treaties of the United States. 28 U.S.C. § 2241. ICE lawfully detains him pursuant to 8 U.S.C. § 1225(b), which mandates detention of arriving aliens. Individuals detained under Section 1225(b), including Petitioner, are not entitled to an individualized bond hearing simply due to the passage of time.

The Supreme Court has considered whether 8 U.S.C. § 1225(b) imposes a time-limit on the length of detention and whether such aliens detained under this statutory authority have a statutory right to a bond hearing. *See Jennings*, 583 U.S. at 297-303. The Court rejected both arguments, holding that Section 1225(b) mandates detention during the pendency of removal proceedings and provides no entitlement to a bond hearing. *See id.*, at 303 ("Nothing in the statutory text imposes any limit on the length of detention."). While *Jennings* forecloses any statutory or categorical constitutional right to a bond hearing under Section 1225(b), it did not reach the issue of whether prolonged detention without such a hearing could, in individual cases, raise a due process concern.

Petitioner's continued detention without a court-ordered bond hearing does not violate his Fifth Amendment due process rights. Courts in this District analyze this issue using a multi-factor test. *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117-118 (W.D. Wash. 2019). In *Banda*, the district court found that the petitioner's 17-month immigration detention pursuant to 8 U.S.C. § 1225(b) had become unreasonable. *Id.*, at 1117-121. To conduct this analysis, the court analyzed six factors: (1) length of detention; (2) how long detention is likely to continue absent judicial intervention; (3) conditions of detention; (4) the nature and extent of any delays in the removal caused by the petitioner; (5) the nature and extent of any delays caused by the government; and

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(6) the likelihood that the final proceedings will culminate in a final order of removal. *See id.* Analysis of these factors demonstrates that Petitioner's detention, while prolonged, has not become unreasonable.

The first *Banda* factor looks at the length of the petitioner's immigration detention. Petitioner has been detained since June 2024. Federal Respondents acknowledge that this factor likely favors Petitioner.

The second *Banda* factor assesses the length of future detention. Petitioner has a pending PFR at the Ninth Circuit. However, Petitioner continues to be in detention due to the Ninth Circuit's stay of removal. The Government has opposed Petitioner's motion to stay removal. If the stay is lifted, ICE's removal order will be deemed final, and he will enter the removal period. 8 U.S.C. § 1231(a). Thus, this factor should favor Federal Respondents as the proceedings are in the final PFR stage.

As for the third *Banda* factor – conditions of detention, Petitioner is detained at the NWIPC.

The fourth *Banda* factor assesses delays caused by the petitioner. This factor should be neutral here. There is no evidence that Petitioner has intentionally caused any delay.

The fifth *Banda* factor, delays in the removal proceedings caused by the government, should favor Federal Respondents. Petitioner cannot demonstrate that the Government has intentionally delayed the proceedings. This is not a case where the petitioner has languished due to the inactivity of the government. Since he first sought admission to the United States, USCIS has assessed Petitioner's fear claim, an immigration judge has ordered Petitioner removed, denied his applications for relief from removal, and the BIA has reviewed and dismissed the appeal.

The last *Banda* factor weighs the likelihood that removal proceedings will result in a final order of removal. This factor should favor Federal Respondents as Petitioner's only available relief from removal is his PFR.

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In total, Petitioner has not demonstrated that his continued detention without a court-ordered bond hearing violates due process.

C. Even if this Court were to find Petitioner's detention without a court-ordered bond to be impermissibly prolonged, this Court should not grant all relief sought in the Petition.

The Petition seeks unwarranted relief even if Petitioner were to prevail. First, this Court should deny his request for release from detention. Pet., Prayer for Relief, ¶ 4. An alien is entitled to release if he can show that his immigration detention is indefinite as defined in *Zadvydas v. Davis*, 533 U.S. 678 (2001). *Hong v. Mayorkas*, No. 2:20-cv-1784, 2021 WL 8016749, at *6 (W.D. Wash. June 8, 2021), *report and recommendation adopted*, 2022 WL 1078627 (W.D. Wash. Apr. 11, 2022). While Petitioner's detention is prolonged, he has not alleged that his detention has become indefinite. Nor has he provided a legal basis for his immediate release from detention.

Second, Petitioner request as an alternative to release that this Court hold an individualized bond hearing. Pet., Prayer for Relief, ¶ 4. If this Court does find that Petitioner is entitled to a court-ordered bond hearing, the bond hearing should be conducted by an immigration judge. While this court may have the authority to conduct bond hearings, this Court should decline to do so as "courts in this Circuit have regularly found that the [immigration judge] is the proper authority to conduct bond hearings and determine a detainee's risk of flight or dangerousness to the community." *Doe v. Becerra*, 697 F. Supp. 3d 937, 948 (N.D. Cal. 2023), *appeal dismissed*, No. 24-332, 2025 WL 252476 (9th Cir. Jan. 15, 2025).

V. CONCLUSION

For the foregoing reasons, this Court should deny the Petition.

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DATED this 30th day of December, 2025.

Respectfully submitted,

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I certify that this memorandum contains 2,213 words, in compliance with the Local Civil Rules.