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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BOBOKULOV AKMAL,

Petitioner,

v.

WARDEN OF CALIFORNIA CITY  
DETENTION,

Respondent.

CASE NO. 1:25-CV-1921-DC-DMC

**RESPONSE TO PETITION FOR  
WRIT OF HABEAS CORPUS**

**I. INTRODUCTION**

Petitioner is subject to expedited removal, and his detention is mandatory “until removed.” 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). The 90-day removal period in 8 U.S.C. § 1231(a) does not start until Petitioner’s appeal is resolved. 8 U.S.C. § 1231(a)(1)(B)(ii). Alternatively, Petitioner has not provided evidence for any change in circumstance after an immigration judge denied his custody redetermination request, determining him to be a flight risk.<sup>1</sup>

**II. BACKGROUND**

Petitioner is a native and citizen of Tajikistan. Cruz Decl., ¶ 6. He entered the United States without inspection on April 26, 2024. *Id.* He was immediately taken into immigration custody. ECF 1, page 9, ¶ 1. Petitioner was processed as an expedited removal pursuant to INA 235(b)(1), 8 U.S.C. § 1225(b)(1). Cruz Decl., ¶ 7.

<sup>1</sup> Petitioner has been detained since his apprehension at the border and has never been granted discretionary parole.

On December 12, 2024, an immigration judge denied Petitioner’s application for relief from removal and ordered him removed to Tajikistan. *Id.*, ¶ 12. On or around January 10, 2025, Petitioner filed a Notice of Appeal with the Board of Immigration Appeals (BIA). *Id.*, ¶ 13. The BIA affirmed the Immigration Judge’s decision and dismissed Petitioner’s appeal on June 6, 2025. *Id.* On or around July 7, 2025, Petitioner filed a petition for review with the U.S. Court of Appeals for the Ninth Circuit (Appeal No. 25-4159). *Id.*, ¶ 16. The appeal is pending and his motion to stay removal was granted. *Id.*

On August 20, 2024, an immigration judge denied Petitioner’s request for custody redetermination. Exhibit 1. On April 9, 2025, Petitioner’s request for a change in custody status was denied. Exhibit 2. On July 7, 2025, Petitioner’s request for a custody redetermination was denied. Exhibit 3. The ground for denial of this most recent request is that petitioner is a “Flight risk.” *Id.* Petitioner has never been granted parole since entering the United States on April 26, 2024. ECF 1, page 9, ¶ 1.

### III. ARGUMENT

#### 1. Petitioner’s detention is mandatory.

Petitioner’s detention is mandatory pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii), which provides that “If the officer determines at the time of the interview that an alien has a credible fear of persecution...the alien shall be detained for further consideration of the application for asylum.” Further, “Any alien subject to the procedures of 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*.” (emphasis added). 8 U.S.C. § 1225(b)(1)(B)(iii)(IV); *see Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018) (“Read most naturally, §§ 1225(b)(1)...mandate[s] detention of applicants for admission until certain proceedings have concluded.”). The Supreme Court distinguished Section 1225(b)(1) detention from the § 1231(a)(6) detention at issue in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), which recognized a due process right of non-citizens detained after orders of removal to receive bond hearings for more than six months, because § 1225(b)(1) requires that non-citizens “shall” be detained until removed, unlike § 1231(a)(6) which states that non-citizens “may” be detained after the 90-day removal period. *See Jennings v. Rodriguez*, 583 U.S. at 300.<sup>2</sup>

<sup>2</sup> Generally, when a non-citizen becomes subject to a final removal order, the government has 90 days in

2. **Petitioner has not provided evidence for a change in circumstance since his most recent custody redetermination.**

Even if Petitioner's detention was discretionary, Petitioner has had a custody redetermination, and Petitioner has not provided any evidence in support of a change in circumstance since that custody redetermination. On July 7, 2025, an immigration judge denied Petitioner's request for a custody redetermination, finding Petitioner to be a "flight risk." The BIA recognizes that "where a previous bond determination has been made by an immigration judge, no change should be made...absent a change of circumstance." *In Matter of Sugay*, 17 I.&N. Dec. 637,640 (BIA 1981). Petitioner has not provided any facts, evidence, or argument for any change in circumstance since his custody redetermination on July 7, 2025, that could warrant a new custody redetermination hearing.

**IV. CONCLUSION**

Respondents respectfully request that the Court deny Petitioner's habeas petition.

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which to remove the non-citizen. 8 U.S.C. § 1231(a)(1)(A). The removal period begins on the latest of: (1) the date the order of removal becomes administratively final; (2) if the order is judicially reviewed and if a court orders a stay of removal, the date of the court's final order; or (3) if the non-citizen is detained or confined in a non-immigration process, the date the non-citizen is released from detention or confinement. *Id.* § 1231(a)(1)(B). Because Petitioner is subject to mandatory detention under § 1225(b)(1), the foregoing does not apply. However, even if it did, the 90-day removal period under § 1231(a)(1) has not yet begun to run because of the Ninth Circuit's stay of removal. § 1231(a)(1)(B)(ii).