

Magistrate Judge Grady J. Leupold

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

L.B.O.M.,¹

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02695-GJL

FEDERAL RESPONDENTS'² RETURN

Noted for Consideration:
January 20, 2026

I. INTRODUCTION

Petitioner L.B.O.M has failed to demonstrate that her ongoing immigration detention pursuant to 8 U.S.C. § 1225(b) violates the Due Process Clause of the Fifth Amendment. Dkt. No. 1, Pet., Claim for Relief. Because Petitioner is an arriving alien, Section 1225(b) mandates her detention. 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.”). U.S. Immigration and Customs Enforcement (“ICE”) has detained Petitioner for

¹ Petitioner’s name is redacted to the initials under LCR 5.2(a)(2) due to her age.

² Respondent Bruce Scott is not a federal official and is not represented by undersigned counsel.

1 approximately nine months. Her removal proceedings have been continued to allow for U.S.
2 Citizenship and Immigration Services (“USCIS”) to adjudicate various applications for relief from
3 removal.

4 Petitioner’s request for a court-ordered individualized bond hearing should be denied. The
5 Supreme Court has considered whether 8 U.S.C. § 1225(b) imposes a time-limit on the length of
6 detention and whether such noncitizens detained under this statutory authority have a statutory
7 right to a bond hearing. *See Jennings v. Rodriguez*, 583 U.S. 281, 297-303 (2018). The Supreme
8 Court held that “nothing in the statutory text [of 8 U.S.C. § 1225(b)] imposes any limit on the
9 length of detention” nor “says anything whatsoever about bond hearings.” *Id.*, at 297. The
10 Supreme Court’s decision in *Thuraissigiam* reinforced this holding. *Dep’t of Homeland Sec. v.*
11 *Thuraissigiam*, 591 U.S. 103 (2020). Therein, the Supreme Court “reiterated th[e] important rule”
12 that a noncitizen seeking initial entry to the United States “has no entitlement” to *any* legal rights,
13 constitutional or otherwise, other than those expressly provided by statute. *See* 591 U.S. at 107,
14 138-39; *see also id.*, at 107 (“Congress is entitled to set the conditions for an alien’s lawful entry
15 into this country and that, as a result, an alien at the threshold of initial entry cannot claim any
16 greater rights under the Due Process Clause.”).

17 Accordingly, Federal Respondents respectfully request that the Court deny the Petition.

18 II. BACKGROUND

19 A. 8 U.S.C. § 1225(b)

20 Petitioner is an arriving alien who is subject to mandatory detention pursuant to 8 U.S.C.
21 § 1225(b). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Applicants for admission
22 fall into one of two categories. Section 1225(b)(1) covers noncitizens initially determined to be
23 inadmissible due to fraud, misrepresentation, or lack of valid documentation, and certain other
24 aliens designated by the Attorney General in her discretion. Separately, Section 1225(b)(2) serves

1 as a catchall provision that applies to all applicants for admission not covered by Section
2 1225(b)(1) (with specific exceptions not relevant here). *See Jennings*, 583 U.S. at 287.

3 Congress has determined that all aliens subject to section 1225(b) are subject to mandatory
4 detention. Regardless of whether an alien falls under Section 1225(b)(1) or (b)(2), the sole means
5 of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian reasons or
6 significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283. This parole terminates
7 automatically at the expiration of the time for which parole was authorized, or upon service of a
8 charging document for either expedited removal proceedings under Section 1225(b) or removal
9 proceedings under Section 1229a. 8 C.F.R. §§ 212.5(e)(1); (2)(i). Upon termination of parole, the
10 applicant reverts to the status that he or she had at the time of parole. *See id.*

11 **B. Interim Parole under 8 U.S.C. § 1182(d)(5)(A)**

12 While all noncitizens detained pursuant to 8 U.S.C. § 1225(b) are subject to mandatory
13 detention, the Attorney General or Department of Homeland Security (“DHS”) has discretion to
14 grant parole. *See* 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(a) (designating who may exercise
15 authority to grant parole); *see also Jennings*, 583 U.S. at 300 (noting that the Attorney General
16 may grant aliens detained under Section 235(b)(1) temporary parole into the United States “for
17 urgent humanitarian reasons or significant public benefit” (quoting 8 U.S.C. § 1182(d)(5)(A)).
18 This discretionary parole is statutorily required to be “temporary parole” under 8 U.S.C. §
19 1182(d)(5)(A), and the statute does not grant the Attorney General or DHS the discretion to grant
20 indefinite parole to those subject to mandatory detention. When parole expires, “no written notice
21 shall be required.” 8 C.F.R. § 212.5(e)(1).

22 **C. Petitioner L.B.O.M.**

23 Petitioner is a citizen of Colombia who initially entered the United States in 2024 as an
24 unaccompanied minor in 2024. Pet., ¶ 18; Reed Decl., ¶ 4. She applied for admission at or near

the San Ysidro, California, port of entry. Reed Decl., ¶ 4. DHS served Petitioner with a notice to appear, charging her as inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I), for lacking valid entry documents. Reed Decl., ¶ 4. In July 2024, DHS granted Petitioner parole pursuant to 8 U.S.C. § 1182(d)(5)(A) and released her to a sponsor in the United States. Reed Decl., ¶ 7.

On April 18, 2025, U.S. Customs and Border Patrol (“CBP”) detained Petitioner at the Peace Arch Port of Entry after she was refused entry into Canada. Reed Decl., ¶ 8; Lambert Decl., Ex. A, Form I-213; Ex. B, Warrant for Arrest; Ex. C, Notice of Custody Determination. CBP issued Petitioner a new notice to appear. Lambert Decl., Ex. D, Notice to Appear. She was thereafter transferred to the Northwest ICE Processing Center. Reed Decl., ¶ 9.

On October 25, 2025, USCIS granted Petitioner’s Form I-360. Pet., ¶ 28. This provides her with Special Immigrant Juvenile (“SIJ”) status. With approved SIJ classification, USCIS will consider Petitioner for SIJ Deferred Action, which, if approved, would provide Petitioner with a temporary stay of removal. USCIS, Special Immigrant Juvenile Frequently Asked Questions, available at <https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-juveniles/special-immigrant-juvenile-sij-frequently-asked-questions> (last visited Jan. 12, 2026). Petitioner’s asylum application remains pending with USCIS. *Id.*, ¶ 29.

On November 24, 2025, the immigration judge denied Petitioner’s motion to terminate her removal proceedings. The Order explained that DHS will agree to continuances for the adjudication of Petitioner’s pending applications. Dkt. No. 1-4, Order.

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. Allopeth 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); *Morris v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

A. Petitioner’s continued detention without a court-ordered bond hearing is constitutional.

Petitioner has not shown that she is in immigration custody in violation of the Constitution, law, or treaties of the United States. 28 U.S.C. § 2241. ICE lawfully detains her 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.

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

12 The first *Banda* factor looks at the length of the petitioner's immigration detention.
13 Petitioner has been detained since April 18, 2025. While Federal Respondents acknowledge that
14 her detention has become prolonged, this Court should note that the current length of her detention
15 has not reached the length of what many courts have found to be unreasonable. *See Hong v.*
16 *Mayorkas*, No. 2:20-cv-1784, 2021 WL 8016749, at *5 (W.D. Wash. June 8, 2021), *report and*
17 *recommendation adopted*, 2022 WL 1078627 (W.D. Wash. Apr. 11, 2022) (collecting cases
18 finding prolonged detention from 13 months to 32 months without a court-ordered bond hearing
19 to have become unreasonable). Therefore, at worst, this factor should be neutral.

20 The second *Banda* factor assesses the length of future detention. Petitioner's removal
21 proceedings will be stayed pending USCIS's adjudication of her SIJ and asylum applications. If
22 Petitioner is granted asylum or deferred action she may be released from detention. But USCIS
23 has not yet issued a decision for either request. Any estimate of future detention would be
24 speculative, at best. Thus, this Court should find this factor to be neutral.

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

2 The fourth *Banda* factor assesses delays caused by the petitioner. Because there is no
3 evidence that Petitioner has intentionally caused any delay, this factor likely favors Petitioner.
4 Likewise, because the government has not intentionally caused any delay, the fifth *Banda* factor
5 favors Federal Respondents.

6 The last *Banda* factor weighs the likelihood that removal proceedings will result in a final
7 order of removal. It is unknown whether Petitioner’s applications for relief from removal pending
8 with USCIS will be granted or denied. As speculation would be necessary to evaluate this factor,
9 this factor should be deemed neutral at this time.

10 In total, the *Banda* factor analysis demonstrates that most factors are neutral. Without a
11 clear showing that her ongoing detention without a court-ordered bond hearing violates due
12 process, this Court should deny Petitioner’s request for a bond hearing.

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

15 The Petition seeks unwarranted relief even if Petitioner were to prevail. First, Petitioner
16 ask this Court to require the government to establish by clear and convincing evidence “that no
17 alternative to detention can mitigate any risk that her release would present.” Prayer for Relief,
18 ¶ b. This request is overbroad. An alternative to detention analysis should not be required should
19 Petitioner be found to be a danger to the community. *See Martinez v. Clark*, 36 F.4th 1219, 1231
20 (9th Cir. 2022), *cert. granted, judgment vacated*, 144 S. Ct. 1339 (2024) (“Due process does not
21 require immigration courts to consider conditional release when determining whether to continue
22 to detain [a noncitizen] under § 1226(c) as a danger to the community.”).

23 Second, Petitioner requests as an alternative to release that this Court hold an
24 individualized bond hearing. Pet., Prayer for Relief, ¶ c. If this Court does find that Petitioner is

1 entitled to a court-ordered bond hearing, the bond hearing should be conducted by an immigration
2 judge. While this court may have the authority to conduct bond hearings, this Court should decline
3 to do so as “courts in this Circuit have regularly found that the [immigration judge] is the proper
4 authority to conduct bond hearings and determine a detainee’s risk of flight or dangerousness to
5 the community.” *Doe v. Becerra*, 697 F. Supp. 3d 937, 948 (N.D. Cal. 2023), *appeal dismissed*,
6 No. 24-332, 2025 WL 252476 (9th Cir. Jan. 15, 2025).

7 **V. CONCLUSION**

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

9 DATED this 12th day of January, 2026.

10 Respectfully submitted,

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24 *I certify that this memorandum contains 2,082 words, in compliance with the Local Civil Rules.*