

District Judge Tiffany M. Cartwright

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

SURAJ SURAJ,

Petitioner,

v.

PAMELA BONDI, *et al.*

Respondents.

Case No. 2:25-cv-02699-TMC

FEDERAL RESPONDENTS'¹
SUPPLEMENTAL BRIEFING

Noted for Consideration:
January 30, 2026

Pursuant to this Court's Order (Dkt. No. 12), Federal Respondents submit the following briefing concerning Petitioner Suraj Suraj's claim that his stop and arrest violate the Fourth Amendment. Pet., ¶¶ 32-38; Dkt. No. 10, Traverse, at 2-8. Petitioner claims that officers stopped him for questioning without reasonable suspicion. Pet., ¶ 37. He further alleges that his arrest lacked "probable cause to believe that Petitioner was either a flight risk or present unlawfully in the United States." *Id.*

Petitioner's claims concerning his arrest by immigration officers are not cognizable in this habeas action. *Labrador Abadin v. Noem*, No. 25-cv-2411, 2026 WL 217148 (W.D. Wash. Jan.

¹ Respondent Bruce Scott is not a federal official and is not represented by undersigned counsel.

1 28, 2026) (stating that a habeas petitioner brought pursuant to 28 U.S.C. § 2241 “is not the
2 appropriate mechanism to challenge the legality of [an] arrest”); *Marroquin Salazar v. Noem*, No.
3 5:25-cv-02367, 2025 WL 3535050, at *1 (C.D. Cal. Dec. 8, 2025) (adopting and quoting the
4 Report & Recommendation, attached hereto as Exhibit C. But even if he could establish his Fourth
5 Amendment claim – which Federal Respondents do not concede, this claim should not be brought
6 via habeas and release would not be an appropriate form of relief.

7 Since removal proceedings are underway, Petitioner’s current custody flows not from his
8 arrest and initial post-arrest detention, but from the authority of the Immigration and Nationality
9 Act (“INA”). *See, e.g.*, 8 U.S.C. § 1225(b)(2). The legality of Petitioner’s arrest is not presently
10 relevant and thus cannot be the basis for habeas relief. The habeas statute allows a petitioner who
11 is “in custody” to challenge that custody on various grounds, 28 U.S.C. § 2241(c), including that
12 “[h]e is in custody in violation of the Constitution or laws or treaties of the United States.” 28
13 U.S.C. § 2241(c)(3). The statute is written in the present tense, making clear that Section 2241
14 only allows a petitioner to challenge his current custody, not his past custody. *See Preiser v.*
15 *Rodriguez*, 411 U.S. 475, 484 (1973) (“the essence of habeas corpus is an attack by a person *in*
16 *custody* upon the legality of *that custody*” (emphasis added)).

17 While Petitioner is free to challenge his current custody based on that statutory authority,
18 any habeas claim basis on his arrest is now moot, since the arrest is not the source of his present
19 custody. *See Barker v. Estelle*, 913 F.2d 1433, 1440 (9th Cir. 1990) (habeas petition challenging
20 pretrial detention was moot once petitioner was incarcerated pursuant to a judgment of conviction);
21 *James v. Reese*, 546 F.2d 325, 328 (9th Cir. 1976) (same).

22 The INA, 8 U.S.C. § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible
23 and deportable noncitizens and to ensure that noncitizens who are removable are in fact removed
24 from the United States. “[D]etention necessarily serves the purpose of preventing deportable []

1 aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that if
 2 ordered removed, the aliens will be successfully removed.” *Demore v. Kim*, 538 U.S. 510, 528
 3 (2003). The Supreme Court has long held that deportation proceedings “would be in vain if those
 4 accused could not be held in custody pending the inquiry” of their immigration status. *Wong Wing*
 5 *v. United States*, 163 U.S. 228, 235 (1896).

6 Furthermore, this Court does not have jurisdiction to hear Petitioner’s claims that should
 7 be raised in his immigration proceedings. In 8 U.S.C. §1252(b), Congress “consolidated judicial
 8 review of immigration proceedings into one action in the court of appeals.” *Guerrero-Lasprilla v.*
 9 *Barr*, 589 U.S. 221, 233 (2020) (quotation marks and citation omitted). This provision is known
 10 as the “zipper clause” because it “consolidates or ‘zips’ ‘judicial review’ of immigration
 11 proceedings into one action in the court of appeals.” *Singh v. Gonzales*, 499 F.3d 969, 976 (9th
 12 Cir. 2007) (citation omitted). This statute provides:

13 Judicial review of all questions of law and fact, including interpretation and
 14 application of constitutional and statutory provisions, arising from any action taken
 15 or proceeding brought to remove an alien from the United States under this
 16 subchapter shall be available only in judicial review of a final order under this
 17 section. *Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.*

18 8 U.S.C. § 1252(b)(9) (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) (“a petition for review . .
 19 . shall be the sole and exclusive means for judicial review of an order of removal”). “Taken
 20 together, § 1252(a)(5) and § 1252(b)(9) mean that any issue – whether legal or factual – arising
 21 from any removal-related activity can be reviewed only through the [petition for review] process.”
 22 *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016).

23 While claims “collateral to, or independent of” the removal process are still subject to
 24 habeas review, “[w]hen a claim by an alien, however it is framed, challenges the procedure and

1 substance of an agency determination that is ‘inextricably linked’ to the order of removal, it is
2 prohibited by section 1252(a)(5).” *Id.* Here, Petitioner’s claims are inextricably linked to
3 “questions of law and fact, including interpretation and application of constitutional and statutory
4 provisions, arising from any action taken or proceeding brought to remove an alien.” 8 U.S.C. §
5 1252(b)(9).

6 Finally, the remedy for an unlawful arrest is the suppression of evidence obtained
7 therefrom, not release from custody. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1040-41 (1984);
8 *United States v. Garcia-Beltran*, 443 F.3d 1126, 1131-32 (9th Cir.), cert. denied, 549 U.S. 935
9 (2006); *see also Martinez-Medina v. Holder*, 673 F.3d 1029, 1033-34 (9th Cir. 2011) (exclusionary
10 rule applies in civil removal proceedings only when the Fourth Amendment violation is egregious).
11 “The ‘body’ or identity of a defendant or respondent in a criminal or civil proceeding is never itself
12 suppressible as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search,
13 or interrogation occurred.” *Lopez-Mendoza*, 468 U.S. at 1039; *see also Stone v. Powell*, 428 U.S.
14 465, 485 (1976) (noting that “judicial proceedings need not abate when the defendant’s person is
15 unconstitutionally seized” (*citing Gerstein v. Pugh*, 420 U.S. 103, 119 (1975); *Frisbie v. Collins*,
16 342 U.S. 519 (1952))); *Garcia-Beltran*, 443 F.3d at 1132 (“[T]here is no sanction to be applied
17 when an illegal arrest only leads to discovery of the man’s identity.” (quotation omitted)).

18 Accordingly, because Petitioner seeks his release from custody based on an allegedly
19 unlawful arrest, there is no basis for the Court to grant such relief. *See, e.g., Rodrigues De Oliveira*
20 *v. Joyce*, 2025 WL 1826118, at *5 (D. Me. July 2, 2025) (“Petitioner’s argument that an illegal
21 arrest automatically results in an illegal detention is misguided. . . . [E]ven if Petitioner’s initial
22 arrest was unlawful, her detention pending removal may stand.”); *Alonso-Portillo v. Bondi*, 2025
23 WL 2483393, at *11 (S.D. Ohio Aug. 28, 2025) (“Traditional application of the exclusionary rule
24 results in the suppression of evidence, as ‘fruits of the poisonous tree,’ obtained in violation of the

1 Fourth Amendment. But the rule does not, as Alonso-Portillo asserts here, dictate his immediate
2 release from detention.”); *Marvan v. Slaughter*, 2025 WL 1940043, at *3-4 (D. Mont. July 15,
3 2025) (petitioner could not obtain habeas relief on Fourth Amendment violation where
4 administrative removal proceedings had commenced); *H.N. v. Warden*, Stewart Det. Ctr., 2021
5 WL 4203232, at *5 (M.D. Ga. Sept. 15, 2021) (“even if the Court accepted Petitioner’s argument
6 that his initial detention was somehow unlawful, he is still not entitled to habeas relief.”); *Medina*
7 *v. U.S. Dep’t of Homeland Sec.*, 2017 WL 1101370, at *1-2 (W.D. Wash. Mar. 24, 2017)
8 (immigration detainee was not entitled to habeas relief because “the remedy for an unlawful arrest
9 in violation of the Fourth Amendment is suppression of evidence,” so if he “desire[d] release from
10 his current detention, his avenue for seeking such release should occur in the context of his removal
11 proceedings” (citations omitted)); *Amezcu-Gonzalez v. Lobato*, 2016 WL 6892934, at *2 (W.D.
12 Wash. Oct. 6, 2016) (dismissing petition challenging immigration detainee’s arrest on Fourth
13 Amendment grounds where detainee did not dispute that he was subject to final order of removal,
14 and his “only assertion [was] that he should be released because his arrest violated the Fourth
15 Amendment”; “even if petitioner’s arrest amounts to an egregious Fourth Amendment violation,
16 he is not entitled to habeas relief”), report and recommendation adopted, 2016 WL 6892547 (W.D.
17 Wash. Nov. 22, 2016); *Nyuwa v. Gurule*, 2014 WL 12984435, at *1 (D. Ariz. June 13, 2014) (“It
18 is doubtful that Petitioner’s arrest was unlawful. But even if it was, his allegedly unlawful arrest
19 does not invalidate his current immigration detention because ‘the “body” or identity of a
20 defendant in a criminal or civil proceeding is never itself suppressible as the fruit of an unlawful
21 arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred.’” (*quoting*
22 *Lopez-Mendoza*, 468 U.S. at 1039)).

23 Therefore, this Court should deny Petitioner’s Fourth Amendment claim.

24 //

1 DATED this 8th day of January, 2026.

2 Respectfully submitted,

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16 *I certify that this memorandum contains 1,507*
17 *words, in compliance with the Local Civil Rules.*