



removal order, removal proceeding, or discretionary decision to commence removal. Instead, Petitioner challenges only the legality of his present physical detention.

The Supreme Court has explicitly rejected the Government's attempt to use § 1252 to shield immigration detention from habeas review. In *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018), the Court confirmed that § 1252 does not eliminate habeas jurisdiction over challenges to detention itself.

Respondents' jurisdictional argument improperly conflates challenges to removal proceedings with challenges to detention. These are distinct claims. Because Petitioner challenges only the legality of his confinement, jurisdiction under 28 U.S.C. § 2241 is proper.

Respondents' contrary assertion is unsupported by statute and inconsistent with binding Supreme Court precedent.

## **II. RESPONDENTS' RELIANCE ON PETITIONER'S "ARRIVING ALIEN" STATUS DOES NOT AUTHORIZE UNLIMITED DETENTION**

Respondents repeatedly invoke Petitioner's classification as an arriving alien to suggest that his detention is categorically immune from judicial review. This argument is legally unsound.

The Supreme Court has made clear that habeas corpus exists to review executive detention regardless of immigration classification. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Petitioner is physically present within the territorial United States and is detained in a correctional facility under federal authority. The Government cannot avoid constitutional scrutiny simply by invoking a statutory label.

Respondents cite statutory language authorizing detention under § 1225(b)(2), but they fail to identify any provision eliminating habeas review of detention.

The Government's position would effectively grant DHS unchecked authority to detain individuals without judicial oversight. Such a result is inconsistent with centuries of habeas corpus jurisprudence and fundamental constitutional structure.

### **III. RESPONDENTS' ASSERTION OF UNREVIEWABLE DISCRETION IS CONTRARY TO SETTLED LAW**

Respondents contend that DHS possesses unreviewable discretion regarding parole and detention decisions. This argument overstates the scope of executive authority.

While DHS may have discretion regarding parole decisions, the legality of detention itself remains subject to habeas review.

The Supreme Court has repeatedly affirmed that federal courts retain authority to review executive detention. See *Boumediene v. Bush*, 553 U.S. 723, 765 (2008).

Respondents cannot insulate detention from judicial review simply by characterizing it as discretionary.

#### **IV. RESPONDENTS FAIL TO ESTABLISH THAT PETITIONER'S CONTINUED DETENTION IS LAWFUL**

Respondents rely almost exclusively on statutory language while ignoring constitutional limitations.

Civil detention is permissible only insofar as it remains reasonably related to its purpose and consistent with due process. Detention that lacks meaningful procedural safeguards raises serious constitutional concerns.

Respondents have failed to demonstrate that Petitioner's continued detention without an individualized bond determination satisfies constitutional requirements.

#### **V. PAROLE REVOCATION DOES NOT AUTOMATICALLY TRIGGER MANDATORY DETENTION WITHOUT REVIEW**

Respondents argue that parole termination is entirely discretionary and unreviewable. Even if the grant or termination of parole is discretionary, the resulting detention is not insulated from constitutional review.

The statute does not expressly state that a previously paroled individual may be detained indefinitely without any procedural safeguard following revocation. The Due Process Clause requires at minimum a meaningful opportunity to challenge continued detention.

Courts retain habeas jurisdiction to review whether detention is authorized by statute and consistent with constitutional limits. Discretionary language in § 1182(d)(5)(A) does not foreclose review of the legality of confinement.

## **VI. PETITIONER'S CLASSIFICATION AS AN "ARRIVING ALIEN" DOES NOT ELIMINATE DUE PROCESS PROTECTIONS**

While Respondents rely heavily on the "arriving alien" designation, physical presence in the United States carries constitutional significance.

The Supreme Court has recognized that noncitizens physically present in the United States—even if not formally admitted—are entitled to due process protections. Mandatory detention without any opportunity for individualized review raises serious constitutional concerns.

Even under *Jennings*, courts must still assess whether prolonged detention without bond comports with due process.

## **VII. HABEAS RELIEF IS APPROPRIATE AND NECESSARY**

Petitioner does not seek termination of removal proceedings. Petitioner seeks only basic procedural protection: Release from ICE custody and continue with the removal proceedings without being detained.

This is a modest and constitutionally appropriate remedy.

Without judicial intervention, Petitioner remains subject to detention without meaningful review, contrary to the core purpose of habeas corpus.

## **VII. CONCLUSION**

Respondents' Opposition fails to establish that this Court lacks jurisdiction or that Petitioner's detention is lawful.

Their arguments rely on mischaracterizations of the Petition and overbroad assertions of executive authority that are inconsistent with binding precedent.

This Court retains jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioner's detention.

For these reasons, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and immediately release the petitioner.

**Respectfully submitted**

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/S/Rizwan M. Khalid

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