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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

S.A.,

Petitioner,

vs.

CHRISTOPHER J. LAROSE, Warden, Otay Mesa Detention Center; GREGORY J. ARCHAMBEAULT, San Diego Field Office Director; TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security,

Respondents.

Case No. 3:26-cv-00592-LL-DEB

PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

Respondents' two-page opposition offers little argument to support their actions, because there is simply no valid basis for their unlawful detention of Petitioner. As explained in S.A.'s Petition for Writ of Habeas Corpus, Respondents' blatant constitutional and statutory violations are undeniable and indefensible. Contrary to Respondents' assertions, 8 U.S.C. § 1226(e) does not bar review of Petitioner's claims. Nor is mandatory detention under 8 U.S.C. § 1225(b) permissible, because § 1225(b) applies only to arriving immigrants and those seeking admission to the United States. Respondents do not dispute that Petitioner had already resided in the United States for nearly three years before being apprehended by ICE in the country's interior.

Petitioner is entitled to all of the relief requested in his Petition. Although an Immigration Judge ("IJ") has ordered Petitioner to be released on bond, his claims remain justiciable even after release, and the Court can and should afford him the requested relief, which includes enjoining Respondents from re-detaining Petitioner without a pre-deprivation hearing.

I. Section 1226(e) Does Not Bar Habeas Review.

Respondents overstate the scope of § 1226(e)'s jurisdictional bar, which does not apply here. Respondents' § 1226(e) argument relies on misconstruing the nature of Petitioner's claims as a challenge to "the decision to remand him back into custody." ECF No. 7 at 2. Respondents' decision to remand him back into custody was indeed baseless, but that is not the crux of the Petition, which challenges the manner and legal basis of his detention. Indeed, the Petition clearly asserts three claims alleging that Respondents violated the Constitution, the Immigration and Nationality Act ("INA"), and the Administrative Procedure Act ("APA") by detaining him without appropriate Due Process. ECF No. 1 ¶¶ 77-86.

It is well settled that "when constitutional questions are in issue, the availability of judicial review is presumed," and courts will not infer that Congress took the "extraordinary step" of foreclosing jurisdiction absent "clear and convincing" evidence of such intent. *Alikhani v. Fasano*, 70 F. Supp. 2d 1124, 1128 (S.D. Cal. 1999). Congress has expressed no such intent here. Courts in this District consistently hold that 1226(e) does not divest federal courts of jurisdiction to hear constitutional

challenges to immigration detention. *See id.* at 1129 ("To interpret § 1226(e) as affecting this court's jurisdiction to hear a constitutional challenge to a statute which requires mandatory detention reads the section too broadly. Section 2241 specifically allows a court jurisdiction to ensure that individuals are not in custody in violation of the laws of the United States. *See* 28 U.S.C. § 2241(c)(3)."); *see also Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011) (Claims that "the discretionary process itself was constitutionally flawed are cognizable on habeas because they fit comfortably within the scope of § 2241."). Accordingly, Section 1226(e) "does not limit habeas jurisdiction over questions of law." *Singh,* 638 F.3d at 1202; *see also Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361, *3 (S.D. Cal. Oct. 24, 2025) (holding that habeas petition based on due process and statutory violations was not barred because the petition challenged "the statutory and constitutional authority under which that detention was classified," not DHS's exercise of discretionary detention authority).

The precedent Respondents purport to rely on offers them no support. Respondents cite to *Jennings* to argue that § 1226(e) bars review, but the Supreme Court has made clear that constitutional challenges like those raised here "fall[] outside the scope of § 1226(e)" and are well within federal court jurisdiction. *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018). *Demore* is similarly inapposite. That case concerned mandatory detention under § 1226(c) following certain criminal convictions, an entirely separate statutory scheme that Respondents do not (and cannot) contend applies to Petitioner. *Demore v. Kim,* 538 U.S. 510, 517–18 (2003).

II. Detention of Petitioner Under Section 1225(b)(2) Is Unlawful.

Respondents claim the authority to detain Petitioner under § 1225(b)(2) but make no argument as to why this provision justifies Petitioner's detention. Instead, Respondents misstate the law to represent that § 1225 applies broadly to all "applicants for admission," including Petitioner. ECF No. 7 at 3. In reality, § 1225 applies only to the detention of immigrants who have "*not been admitted*" to the United States or who are *detained on arrival* to the United States. Section 1226, on the other hand, details the standards for discretionary detention of immigrants while a removal decision is pending. Courts across the country have consistently considered the operative difference between these two provisions to lie in when and where an immigrant is detained by federal authorities, with § 1226 applying to those instances—

like in Petitioner's case—when an immigrant is detained while *already residing* in the United States. *See* ECF No. 1 ¶¶ 47-48; *see, e.g., Cordero Pelico v. Kaiser*, No. 25-CV-07286-EMC, 2025 WL 2822876, at *8 (N.D. Cal. Oct. 3, 2025) ("[W]hether the Government may have had the power to detain Petitioners under 1225(b), the reality is that the detention authority consistently applied by the government to Petitioners since their arrival in the United States *has always been* § 1226") (emphasis added).

Respondents do not dispute that Petitioner was paroled into the United States in 2023, allowing him to legally reside in the United States until his asylum case is resolved. *Id.* Nor do Respondents dispute that Petitioner was detained at Camp Pendleton, a Marine Corps base in Oceanside, California, years after his arrival and over 50 miles from the United States' border with Mexico. ECF No. 7 at 2. Therefore, Respondents' claim that Petitioner is properly detained under § 1225 is baseless and flouts decades of precedent across the country. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (finding a distinction between an immigrant who has "effected an entry into the United States," as contemplated by § 1226, and one who is detained at the border and subject to detention under § 1225). Thus, it is unsurprising that Respondents hardly attempt to defend this improper application of § 1225.

Properly applying § 1226, it becomes evident that Respondents have no legal basis upon which to justify Petitioner's detention. Under § 1226, bond may be revoked, and an immigrant may be held in detention, only if they are shown to be either a flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690-91. Here, since Petitioner was first granted conditional parole, there has been no change in circumstance that compels his detention under § 1226; he is neither a flight risk nor a threat to public safety, ECF No. 1 at ¶ 53, a conclusion which Respondents do not attempt to dispute. Therefore, Petitioner's detention under § 1226, with no accompanying finding of changed circumstances, is illegal and impermissible.

III. All Relief Requested by Petitioner Is Proper, Appropriate, and Should Be Granted.

Although an Immigration Judge ("IJ") issued an order on February 10, 2026, to release Petitioner on bond, he remains in Respondents' custody at the time of this filing. Even after he is released, however, this Court can still consider and should still grant the additional relief requested in the Petition. For instance, Petitioner asked the Court to order that "Respondents may not re-detain him absent a violation

of [reasonable conditions of supervision] proven by ICE at a pre-deprivation hearing" and to "[e]njoin Respondents from causing Petitioner any greater harm during the pendency of this litigation and his immigration court case, such as by transferring him out of this District." ECF No. 1 at 20. The fact that Petitioner is subject to release on bond has no bearing on his request for prospective relief preventing unlawful future detention. *See Jazrawi v. Wolf*, No. 20-CV-2338-GPC-KSC, 2021 WL 978775, at *2 (S.D. Cal. Mar. 16, 2021) (holding that a request for prospective relief barring unlawful re-detention "cannot be mooted by [Petitioner's] present release on an order of supervision"); *see also Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 990 (C.D. Cal. 2018) ("Because [Petitioner] may be re-detained at any time, [he] retain[s] a live interest in habeas relief.").

Respondents' citation to *Pinson* and *Nettles* is misplaced. ECF No. 7 at 3. *Pinson v. Carvajal*, 69 F.4th 1059 (9th Cir. 2023), involved only conditions-of-confinement claims brought by convicted criminal detainees, while *Nettles v. Grounds*, 830 F.3d 922 (9th Cir. 2016), addressed convicted state criminal detainees challenging the expungement of a disciplinary violation. The reasoning of those cases has not been extended to the entirely different context of civil immigration detention and does not foreclose Petitioner's requested relief. *See Doe v. Becerra*, 723 F. Supp. 3d 688, 691 n.1 (N.D. Cal. 2024) (declining to apply *Pinson* to a civil immigration habeas petition).

Accordingly, the Court should maintain its prior order barring Respondents from transferring Petitioner out of the district absent further court order and should grant the relief requested in the Petition, including barring Respondents from re-detaining Petitioner unless, at a pre-deprivation hearing, they prove that he has violated the terms of his release.

CONCLUSION

Petitioner respectfully requests that the Court grant his Petition and maintain its prior order.

Respectfully submitted on February 11, 2026

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