

The Honorable Tana Lin

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

EZEQUIEL FLORES-MARTINEZ,

Petitioner,

v.

TODD BLANCHE *et al.*,¹

Respondents.

Case No. 2:26-cv-01095-TL

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
April 20, 2026

I. INTRODUCTION

This Court should deny Petitioner's Petition for a Writ of Habeas Corpus. Dkt. 1. Petitioner, a native and citizen of Mexico with a significant recent criminal record in Washington state, challenges his lawful civil immigration detention following his arrest by U.S. Immigration and Customs Enforcement ("ICE") on August 25, 2025. Petitioner asserts that his detention for approximately seven- and one-half months violates the Constitution because ICE did not obtain a warrant signed by a federal judge, and that this alleged defect has somehow rendered his detention indefinite in violation of the First, Fifth, Eighth, Thirteenth, and Fourteenth Amendments. These claims lack merit. ICE arrested Petitioner pursuant to a valid administrative warrant of arrest authorized by statute and upheld by controlling precedent. Petitioner received a full bond hearing

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office. Pursuant to Fed. R. Civ. P. 25(d), Federal Respondent substitutes Department of Homeland Security Secretary Markwayne Mullin for Kristi Noem.

1 before an Immigration Judge on February 26, 2026, at which the Immigration Judge denied bond
2 after finding him both a danger to the community and a flight risk. Petitioner waived appeal of that
3 decision. On March 17, 2026, the Immigration Judge ordered Petitioner removed to Mexico. As
4 of the date of this filing, Petitioner has not appealed that order, and the deadline expires April 16,
5 2026. Petitioner's removal is therefore reasonably foreseeable. His continued detention is
6 statutorily authorized under 8 U.S.C. § 1226(a) and fully comports with due process.

7 II. FACTUAL AND PROCEDURAL HISTORY

8 A. Detention Authority

9 Petitioner is detained under the authority of 8 U.S.C. § 1226(a), which provides that the
10 Attorney General may detain an alien "pending a decision on whether the alien is to be removed
11 from the United States." 8 U.S.C. § 1226(a). Under this provision, the alien may request a custody
12 determination hearing before an immigration judge to assess whether the alien should be released
13 on bond. 8 C.F.R. § 236.1(d)(1). At such a hearing, the immigration judge determines whether the
14 alien poses a danger to the community or a flight risk warranting continued detention. *See Matter*
15 *of Guerra*, 24 I. & N. Dec. 37, 38-40 (B.I.A. 2006). The burden is on the alien to demonstrate that
16 he is not a danger or flight risk. *Id.* at 40. If bond is denied, the alien may appeal to the Board of
17 Immigration Appeals ("BIA"). 8 C.F.R. § 236.1(d)(3).

18 This detention authority is consistent with Supreme Court precedent recognizing that
19 detention during removal proceedings is a constitutionally valid aspect of the deportation process.
20 *Demore v. Kim*, 538 U.S. 510, 531 (2003). The Ninth Circuit has affirmed that the "substantial
21 procedural protections" available under 8 U.S.C. § 1226(a), including placing the burden on the
22 alien at the initial bond hearing, satisfy due process. *Rodriguez Diaz v. Garland*, 53 F.4th 1189,
23 1206-10, 1214 (9th Cir. 2022).

24 Once a final order of removal is entered, detention authority is governed by 8 U.S.C.
25 § 1231. Under 8 U.S.C. § 1231(a)(1)(A), when an alien is ordered removed, the Attorney General
26 shall remove the alien from the United States within a period of 90 days. *See* 8 U.S.C.
27 § 1231(a)(1)(A). During this 90-day removal period, detention is addressed under 8 U.S.C.

§ 1231(a)(2). For post-removal-order detention under 8 U.S.C. § 1231(a)(6), the Supreme Court has construed the statute to contain an implicit reasonable time limitation. *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

B. Petitioner Ezequiel Flores-Martinez

Petitioner is a native and citizen of Mexico. Declaration of Deportation Officer Sheldon Benjamin, (Benjamin Decl.,) ¶ 4. He lawfully entered the United States on or about November 25, 2014, at or near Laredo, Texas, as a nonimmigrant temporary agricultural worker authorized to remain only until July 25, 2015. *Id.* Petitioner has remained unlawfully present in the United States since that authorization expired more than ten years ago.

Since 2023, Petitioner has compiled a troubling record of repeated criminal conduct in the Yakima Valley area of Washington. Declaration of Lawrence Van Daley, (Van Daley Decl.,) Exhibit (Ex.) 1, Form I-213. On September 5, 2023, he was arrested by the Yakima Police Department for theft. Benjamin Decl., ¶ 5. On December 29, 2023, he was arrested for driving under the influence. Benjamin Decl., ¶ 6. On March 20, 2024, he was arrested again for theft. Benjamin Decl., ¶ 7. On March 27, 2024, Petitioner was convicted in Yakima Municipal Court of two counts of theft and reckless driving and sentenced to 364 days in jail. Benjamin Decl., ¶ 8. His criminal activity continued into 2025. On April 19, 2025, he was arrested by the Yakima Police Department for defecating in public and making false statements to a public servant. Benjamin Decl., ¶ 9. On May 7, 2025, he was convicted in Yakima Municipal Court of those offenses and sentenced to 364 days and 90 days in jail. Benjamin Decl., ¶ 10. On July 14, 2025, he was arrested by the Union Gap Police Department for criminal trespass and theft and sentenced to 364 days. Benjamin Decl., ¶ 11. On August 13, 2025, Petitioner was convicted in Yakima District Court of two counts of theft and reckless driving and sentenced to 364 days in jail. Benjamin Decl., ¶ 12.

On August 25, 2025, Enforcement and Removal Operations officers arrested Petitioner in Yakima, Washington. Petitioner was served that same day with a Warrant for Arrest of Alien and a Notice of Custody Determination. Benjamin Decl., ¶ 13; Van Daley Decl., Ex. 2, Warrant. He was transferred to the Northwest ICE Processing Center in Tacoma, Washington, where he remains

1 detained. Benjamin Decl., ¶ 14. Also on August 25, 2025, Petitioner was served with a Notice to
2 Appear charging him as removable under 8 U.S.C. § 1227(a)(1)(B) for overstaying his authorized
3 period of admission. Benjamin Decl., ¶ 15.

4 On February 26, 2026, an Immigration Judge conducted a bond hearing and denied
5 Petitioner's release, finding him both a danger to the community and a flight risk. Benjamin Decl.,
6 ¶ 19; Van Daley Decl., Ex. 3, Bond Order. Petitioner waived appeal of the bond decision. *Id.* On
7 March 17, 2026, following a merits hearing on his removability, the Immigration Judge ordered
8 Petitioner removed to Mexico. Benjamin Decl., ¶ 20; Van Daley Decl., Ex. 4, Removal Order.
9 Petitioner reserved his right to appeal the removal order. *Id.* The appeal period expires on April
10 16, 2026. No appeal has been filed to date. Benjamin Decl., ¶ 21. Once the removal order becomes
11 final, Enforcement and Removal Operations intends to initiate the process to remove Petitioner to
12 Mexico. Benjamin Decl., ¶ 22. At that time, his detention authority will shift to mandatory
13 detention pursuant to 8 U.S.C. § 1231(a).

14 III. LEGAL AUTHORITY

15 This Court has jurisdiction to entertain the Petition under the federal habeas statute,
16 28 U.S.C. § 2241(a) and (c)(3), which authorizes review of claims that an alien is "in custody in
17 violation of the Constitution or laws or treaties of the United States." *See Zadvydas*, 533 U.S.
18 at 687. However, the Petition fails on the merits. Petitioners' detention is lawful, and his claims of
19 constitutional violations are without merit.

20 IV. ARGUMENTS

21 A. Petitioner's Arrest and Detention Comply with the Fourth Amendment

22 Petitioner's primary claim, that his arrest and continued detention violate due process
23 because ICE did not obtain a warrant signed by a federal judge, fails as a matter of law. *See* Dkt.
24 No. 4 ¶ 9. ICE arrested Petitioner pursuant to a valid administrative Warrant of Arrest of Alien,
25 which is expressly authorized by statute and consistent with the Fourth Amendment for civil
26 immigration enforcement.

1 Congress has authorized Immigration and Customs Enforcement officers to arrest aliens
2 without a judicial warrant when the officer has reason to believe the alien is in the United States
3 in violation of the immigration laws and is likely to escape before a warrant can be obtained.
4 8 U.S.C. § 1357(a)(2). Where an administrative warrant issues, it is signed by a designated
5 immigration officer, not a judge. *See* 8 C.F.R. § 287.5(e). The Ninth Circuit has held that
6 immigration authorities may arrest individuals for civil immigration removal purposes pursuant to
7 an administrative arrest warrant issued by an executive official, rather than by a judge. *Gonzalez*
8 *v. U.S. Immigration & Customs Enf't*, 975 F.3d 788, 825 (9th Cir. 2020). The court explained that
9 the historical practice of administrative immigration arrests, combined with the civil and non-
10 punitive nature of removal proceedings, satisfies constitutional requirements for arrests conducted
11 outside the home. *Id.* at 824-26 (citing *Abel v. United States*, 362 U.S. 217, 230 (1960), and
12 distinguishing *Payton v. New York*, 445 U.S. 573 (1980), which applies to home entries). The
13 *Gonzalez* court emphasized that administrative warrants have long been a feature of immigration
14 enforcement precisely because removal is a civil regulatory process rather than a criminal
15 prosecution. *Id.* at 825.

16 Here, the record reflects that Petitioner was arrested in Yakima, Washington, and not in a
17 private residence. He was served on the same day with the administrative warrant and Notice of
18 Custody Determination. Petitioner identifies no facts suggesting any home entry or other Fourth
19 Amendment violation. His claim that only a federal judge may issue a warrant for civil immigration
20 detention has no support in statute or binding precedent. *See Gonzalez*, 975 F.3d at 825; *see also*
21 *United States v. Sosa*, 55 F.4th 1141, 1150-51 (9th Cir. 2022) (reaffirming administrative arrest
22 authority in immigration context). The arrest and initial detention were lawful.

23 **B. Petitioner Received All Process Due Under the Fifth Amendment**

24 The Supreme Court has repeatedly upheld prolonged pre-removal detention under 8 U.S.C.
25 § 1226(a) when accompanied by an individualized bond hearing. *See Jennings*, 583 U.S. at 305-
26 06 (rejecting statutory interpretation requiring periodic bond hearings but leaving constitutional
27 questions open); *Demore*, 538 U.S. at 531 (mandatory detention of criminal aliens during removal

proceedings does not violate due process). The Ninth Circuit has likewise held that an initial bond hearing under 8 U.S.C. § 1226(a), followed by the opportunity to seek a subsequent hearing upon a material change in circumstances, satisfies due process. *Rodriguez Diaz*, 53 F.4th at 1195-96 (no second bond hearing required absent material change).

Applying the *Mathews*, balancing test,² Petitioner received all process that is constitutionally due. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). First, although Petitioner has a strong private interest in freedom from physical restraint, that interest is significantly reduced in the immigration context because removal proceedings are civil and regulatory rather than criminal. *See Demore*, 538 U.S. at 523 n.6 (emphasizing the regulatory, non-punitive nature of immigration detention); *Rodriguez Diaz*, 53 F.4th at 1208 (noting that the private liberty interest, while substantial, must be evaluated in light of the process already afforded and the civil character of the proceedings).

Second, the risk of erroneous deprivation is low because Petitioner received a full adversarial hearing before a neutral Immigration Judge, with the opportunity to present evidence and arguments regarding danger to the community and flight risk. The Immigration Judge considered Petitioner's substantial recent criminal history in Yakima County. *See Rodriguez Diaz*, 53 F.4th at 1196-97 (concluding that the adversarial nature of the 8 U.S.C. § 1226(a) bond hearing before an Immigration Judge minimizes the risk of error). He also had the opportunity to administratively appeal the bond denial, which he chose not to do. Further, a noncitizen who remains detained pursuant to Section 1226(a) after the initial bond hearing may request that the IJ conduct another custody redetermination whenever "circumstances have changed materially since the prior bond redetermination." 8 C.F.R. § 1003.19(e).

Third, the government's interest in ensuring Petitioner's appearance at removal proceedings and protecting the community from further criminal activity is substantial. The

² Under *Mathews v. Eldridge*, courts weigh three factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

1 procedures afforded under 8 U.S.C. § 1226(a) adequately balance these interests. *See Rodriguez*
2 *Diaz*, 53 F.4th at 1196-97 (applying *Mathews* and holding that 8 U.S.C. § 1226(a)'s procedures
3 satisfy due process both facially and as applied, even after more than a year of detention following
4 an initial bond hearing); *see also Jennings*, 583 U.S. at 305-06 (rejecting the imposition of
5 additional procedural requirements beyond those provided by statute).

6 No further process is constitutionally required at this stage. *See Rodriguez Diaz*, 53 F.4th
7 at 1196; *see also Demore*, 538 U.S. at 531. Petitioner waived his right to appeal the bond denial,
8 further confirming that he received, and declined to contest, all process due.

9 **C. Petitioner's Remaining Constitutional Claims Are Meritless and Should Be Dismissed**

10 Petitioner broadly asserts violations of his rights under the First, Eighth, Thirteenth, and
11 Fourteenth Amendments, but these claims are meritless both factually and legally and should be
12 dismissed. Petitioner offers no specific factual allegations to support any of these claims, rendering
13 them conclusory and insufficient to warrant habeas relief.

14 First, Petitioner's First Amendment claim fails for lack of any supporting facts. He alleges
15 nothing concerning speech, expression, assembly, petition for redress, or religion, nor does he
16 claim that his detention was imposed in retaliation for protected activity. Threadbare recitals of
17 constitutional violations, unsupported by factual allegations, do not state a plausible claim. *See*
18 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

19 Second, Petitioner's Eighth Amendment claim is foreclosed as a matter of law. The Eighth
20 Amendment's prohibitions on excessive bail and cruel and unusual punishment apply exclusively
21 to criminal prosecutions and punishments. Immigration detention under 8 U.S.C. § 1226(a) is civil
22 and regulatory in nature, not punitive. *See Demore*, 538 U.S. at 523 n.6; *Zadvydas*, 533 U.S. at
23 690. Because Petitioner's detention serves the legitimate governmental purposes of assuring his
24 presence at removal proceedings and protecting the public from additional criminal conduct, it
25 falls outside the Eighth Amendment's reach.

26 Third, Petitioner's Thirteenth Amendment claim is frivolous. The Thirteenth Amendment
27 prohibits slavery and involuntary servitude. Petitioner identifies no facts suggesting forced labor

1 or any condition that could reasonably be construed as involuntary servitude. Civil immigration
2 detention does not constitute involuntary servitude. *See generally Butler v. Perry*, 240 U.S. 328,
3 332-33 (1916).

4 Finally, Petitioner's Fourteenth Amendment claim is legally misplaced. The Fourteenth
5 Amendment constrains state action, whereas federal immigration detention is governed by the Due
6 Process Clause of the Fifth Amendment. *See Wong Wing v. United States*, 163 U.S. 228, 237
7 (1896). Any due-process arguments Petitioner intends to advance are properly analyzed under the
8 Fifth Amendment and are fully addressed in Argument "B" above.

9 Petitioner's scattershot invocation of these additional constitutional provisions adds
10 nothing of substance to his Petition. Each claim is either factually unsupported or legally
11 inapplicable in the context of civil immigration detention. These claims should therefore be
12 dismissed with prejudice.

13 **D. Petitioner's Detention Is Not Indefinite**

14 Petitioner's indefinite detention claim fails because his removal order is on the verge of
15 finality and removal to Mexico is reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (post-
16 order detention presumptively reasonable for six months where removal is reasonably
17 foreseeable). Here, Petitioner has been detained only approximately seven and one half months, a
18 period well within constitutional limits for pre-final-order detention accompanied by a bond
19 hearing. *See Jennings*, 583 U.S. at 306; *Demore*, 538 U.S. at 531. Once Petitioner's removal order
20 becomes final, he will be mandatorily detained during the statutory 90-day removal period.
21 8 U.S.C. § 1231(a)(2). Considering the limited time and legitimate purpose of the 90-day removal
22 period, the Ninth Circuit has repeatedly found that detention during the removal period "passes
23 constitutional scrutiny," even in cases when an alien's removal "is not reasonably foreseeable."
24 *See Khotessouvan v. Morones*, 386 F.3d 1299, 1299 (9th Cir. 2004); *see also Rodriguez v. Hayes*,
25 591 F.3d 1105, 1116 (9th Cir. 2010) (recalling that "Section 1231(a)(2) poses no due process
26 issues, regardless of whether removal of the detained alien is foreseeable, because the statute
27 authorizes detention for only the ninety-day removal period and therefore does not create any

1 danger of unconstitutionally indefinite detention.”). Removal to Mexico is reasonably foreseeable
2 once the appeal period expires on April 16, 2026, or any appeal is resolved. No constitutional
3 violation exists.

4 **V. CONCLUSION**

5 For the foregoing reasons, Respondents respectfully request that the Court deny the Petition
6 for Writ of Habeas Corpus in its entirety.

7 DATED this 15th day of April, 2026.

8 Respectfully submitted,

9 s/ Lawrence Van Daley

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20 I certify that this memorandum contains 2,713
21 words, in compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers;

I further certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify that on this date, I arranged for service of the foregoing, along with the supporting Declarations of Sheldon Benjamin and Lawrence Van Daley on the following non-CM/ECF participant, via Certified Mail, return receipt requested, postage prepaid, addressed as follows:

Ezequiel Flores-Martinez, *Pro Se* Petitioner
A#
NW Detention Center
1623 E. J Street, Suite 5
Tacoma, WA 98421-1615

DATED this 15th day of April, 2026.

s/ Joseph A. Fonseca
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