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REFERENCE

Case 2:26-cv-02768-MJM--DMF
(Rule Number/Section)

Case 2:26-cv-02768-MJM--DMF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

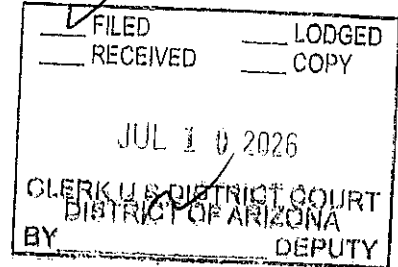
Luis Alejandro Chávez Semprún,

Petitioner,

v.

Warden, Florence Correctional Center, et al.,

Respondents.



PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT
OF HABEAS CORPUS

PRELIMINARY STATEMENT

Petitioner Luis Alejandro Chávez Semprún respectfully submits this Reply to demonstrate that the government's Response (Doc. 11) fails to justify his continued detention under any of the three theories it advances. The government argues that (A) Petitioner violated his bond conditions by being arrested for Petit Theft, (B) he was not subject to a warrantless arrest, and (C) he is subject to mandatory detention under the Laken Riley Act ("LRA"). Each of these arguments is legally insufficient, factually contested, and constitutionally inadequate to sustain the ongoing deprivation of Petitioner's liberty.

A single misdemeanor arrest — not a conviction — for Petit Theft cannot constitutionally justify prolonged civil detention without individualized process. The government's Response does not refute the core constitutional claims raised in the Petition: that Petitioner's confinement is arbitrary, that conditions of detention are punitive, that medical care has been denied or delayed, and that there is a credible risk of transfer or removal designed to defeat this Court's jurisdiction. Those claims stand unanswered and warrant relief.

ARGUMENT

I. A MERE ARREST FOR PETIT THEFT — WITHOUT A CONVICTION — DOES NOT CONSTITUTE A SUFFICIENT BASIS FOR MANDATORY CIVIL DETENTION.

The government contends that because Petitioner was arrested for Petit Theft in Miami-Dade County on February 2, 2026, he qualifies for mandatory detention under 8 U.S.C. § 1226(c) as amended by the Laken Riley Act. This argument conflates arrest with conviction and fails on its own terms.

The LRA expands § 1226(c) to cover aliens charged with, arrested for, or convicted of offenses involving burglary, theft, or larceny. However, an arrest charge that remains pending — as is undisputedly the case here (see Gov't Response at 4: "Currently, the case remains pending") — does not establish commission of any offense. To treat a pending misdemeanor arrest as the equivalent of a conviction for purposes of mandatory no-bail civil detention raises profound due process concerns.

Courts have long recognized that an arrest is not evidence of guilt. See *Stack v. Boyle*, 342 U.S. 1, 4 (1951). Extending mandatory detention based solely on an arrest charge — particularly for a minor offense — expands executive detention power in a manner that, if applied without individualized review, conflicts with the Fifth Amendment's guarantee against arbitrary deprivation of liberty.

Moreover, the criminal charge of Petit Theft remains unresolved. Petitioner has not been convicted of any crime. Treating an unresolved misdemeanor arrest as a permanent trigger for no-release immigration detention cannot withstand constitutional scrutiny, particularly where, as here, the detainee presented substantial ties to the community, is not a danger to the public, and had been previously released on bond precisely because of that low risk profile.

II. THE GOVERNMENT'S RELIANCE ON *JENNINGS v. RODRIGUEZ* DOES NOT FORECLOSE DUE PROCESS CLAIMS.

The government invokes *Jennings v. Rodriguez*, 583 U.S. 281 (2018), to argue that § 1226(c) authorizes continued detention and that no bond hearing is constitutionally required. This is an incomplete and misleading reading of *Jennings*.

Jennings was decided on statutory grounds and explicitly left open the constitutional questions under the Fifth Amendment. The Court remanded constitutional claims without resolving them. 583 U.S. at 310. Jennings therefore does not hold that prolonged mandatory detention without individualized review is constitutional — it simply declined to impose a statutory periodic-review requirement through interpretation.

The constitutional question remains open and governed by *Zadvydas v. Davis*, 533 U.S. 678 (2001), which held that civil detention cannot be sustained where it is effectively indefinite, and by the basic procedural due process framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, the Court must weigh the private liberty interest — which is at its apex for physical confinement — against the risk of erroneous deprivation and the government's interest. On this record, Petitioner's liberty interest is substantial, the risk of error is real (he has no criminal conviction), and the government's interest does not require no-process indefinite detention.

Demore v. Kim, 538 U.S. 510 (2003), is also inapposite. The *Demore* Court premised its approval of brief mandatory detention on the assumption that removal proceedings would be brief — typically lasting a median of 47 days. *Id.* at 529. Petitioner has now been in civil immigration detention for months, has a pending immigration court order that he is challenging, and faces ongoing proceedings before this Court. His detention cannot be analogized to the "brief" detention approved in *Demore*.

III. THE GOVERNMENT'S ACCOUNT OF THE RE-DETENTION IS DISPUTED AND DOES NOT RESOLVE THE CONSTITUTIONAL VIOLATION.

The government contends that DHS had lawful authority to revoke Petitioner's bond based on a material change in circumstances — his arrest for Petit Theft — citing 8 U.S.C. § 1226(b). Even accepting the government's account of the factual sequence, its argument does not cure the constitutional deficiency.

Courts across the country, including within the Ninth Circuit, have held that re-detention following bond revocation based on a subsequent criminal event requires at minimum some process to test whether re-detention is appropriate — not merely the existence of a new arrest charge. See *Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021). The government cites this very

authority in its Response (at p. 2), acknowledging that courts have required a material change in circumstances and have noted limits on DHS's re-detention power.

Here, the "material change" is an unresolved Petit Theft arrest — a misdemeanor charge that, if dismissed or acquitted, would retroactively demolish the government's stated justification. No neutral adjudicator reviewed whether re-detention was appropriate before Petitioner was placed in custody. No hearing was provided. The government asserts that Petitioner "violated" his bond conditions, but this characterization conflates an allegation (an arrest) with a finding (a violation), which due process does not permit.

IV. THE GOVERNMENT'S RESPONSE DOES NOT ADDRESS THE CONSTITUTIONAL CLAIMS REGARDING CONDITIONS OF DETENTION, DENIAL OF MEDICAL CARE, OR THREATENED TRANSFER.

The government's Response is devoted entirely to the threshold detention-authority question. It does not engage with, let alone refute, Petitioner's constitutional claims regarding:

1. Punitive conditions of confinement, including rationed food and water, spoiled food, overcrowding, and unsanitary living conditions, in violation of *Bell v. Wolfish*, 441 U.S. 520 (1979);
2. Deliberate indifference to serious medical and mental health needs, including significant weight loss, anxiety, and depressive episodes, in violation of *Estelle v. Gamble*, 429 U.S. 97 (1976) and *Farmer v. Brennan*, 511 U.S. 825 (1994);
3. Racially abusive and xenophobic treatment by facility personnel, incompatible with civil detention standards;
4. The credible risk of transfer outside this District or removal from the United States while this Petition is pending, which would frustrate this Court's jurisdiction and irreparably harm Petitioner.

The government's silence on these claims is telling. Silence cannot serve as a defense to constitutional violations. These allegations — if proven — independently support habeas relief and at minimum require this Court to order immediate remedial measures while the case proceeds.

Petitioner respectfully requests that the Court issue an order to show cause specifically requiring Respondents to address detention conditions, medical care, and the transfer/removal threat.

V. PETITIONER'S FAMILY TIES, HEALTH DETERIORATION, AND NON-DANGEROUS CHARACTER WEIGH HEAVILY IN FAVOR OF RELEASE OR BOND.

The government's Response makes no individualized assessment of Petitioner's circumstances. It treats him as a category rather than a person. The Constitution does not permit that.

Petitioner is the father of an eight-year-old child whose emotional and economic stability has been severely disrupted by this detention. He has no prior criminal convictions. He entered the United States years ago and established community ties. He has suffered documented physical and mental health deterioration during confinement, including weight loss, anxiety, and depression. He is not a flight risk and is not dangerous.

Even under § 1226(c) mandatory detention, Petitioner retains the right to request a Joseph hearing — *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999) — to contest whether he actually falls within the mandatory detention category. The government acknowledges this. See Gov't Response at 6. Yet Petitioner has had no such hearing. He has had no individualized process whatsoever since being re-detained. That omission is not a technicality; it is the heart of the constitutional problem.

If the Court does not order immediate release, it should at minimum order an immediate individualized custody hearing in which the government bears the burden of demonstrating that continued mandatory detention is justified and that no conditions of release can reasonably ensure Petitioner's appearance and protect the public.

VI. THIS COURT SHOULD ISSUE INTERIM RELIEF TO PRESERVE ITS JURISDICTION.

The government's Response does not address Petitioner's request for interim protection against transfer or removal. Petitioner specifically alleges that he fears transfer or removal designed to defeat this Court's habeas jurisdiction and to punish him for seeking judicial relief.

This Court has inherent authority -- and indeed the duty — to preserve its jurisdiction. Habeas corpus cannot be made meaningless by executive transfer or removal of the petitioner during the pendency of review. See *Nken v. Holder*, 556 U.S. 418 (2009) (recognizing irreparable harm

standard in removal context). Petitioner requests that this Court enter an interim order prohibiting (1) transfer outside the District of Arizona, (2) removal from the United States, and (3) punitive segregation or retaliation against Petitioner for pursuing this litigation, pending final resolution of this Petition.

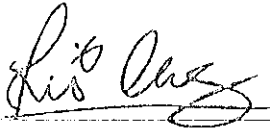
CONCLUSION

The government's Response establishes only that it possesses some statutory authority to detain aliens charged with theft offenses. It does not — because it cannot — establish that Petitioner's prolonged civil detention, under the specific conditions he describes, without any individualized hearing, and at the cost of his health and his child's welfare, is constitutionally permissible.

Petitioner respectfully requests that this Court:

- (a) Grant the Petition and order Petitioner's immediate release from immigration detention, with or without conditions of supervision;
- (b) In the alternative, order an immediate individualized custody hearing before a neutral adjudicator, with the burden on the government to justify continued detention;
- (c) Issue interim relief prohibiting transfer, removal, or punitive retaliation while this Petition is pending;
- (d) Order Respondents to show cause why the remaining constitutional claims (conditions, medical care, transfer threat) should not result in independent habeas relief;
- (e) Grant such other and further relief as law and equity require.

Respectfully submitted,



LUIS ALEJANDRO CHÁVEZ SEMPRÚN

Pro Se Petitioner

A-Number:



Florence Correctional Center

1100 Bowling Road, Florence, Arizona 85132

Date: 7/6/26, 2026

CERTIFICATE OF SERVICE

I hereby certify that on the date signed below, a true and correct copy of the foregoing Petitioner's Reply was served upon Respondents' counsel of record by depositing a copy in the United States Mail, first class postage prepaid, addressed to:

Tracy Riley

Special Assistant United States Attorney

Two Renaissance Square

40 North Central Avenue, Suite 1800

Phoenix, Arizona 85004-4449

Date: 7/6/26, 2026



LUIS ALEJANDRO CHÁVEZ SEMPRÚN