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8 **ALAN RAFAEL RIOS MENDOZA**

9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**
12

13 **ALAN RAFAEL RIOS MENDOZA**

14 Petitioner,

15 v.

16 **MARKWAYNE MULLIN ET AL**

17 Respondents.

18 Case No. 26-cv-02825-JLS-AHG

19 **PETITIONER'S REPLY TO**
20 **RESPONDENTS' RETURN TO**
21 **PETITION FOR WRIT OF HABEAS**
22 **CORPUS**
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3 Petitioner, through counsel, respectfully submits this Reply to Respondents'
4 Return and states as follows:

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6 **I.**

7 **INTRODUCTION**

8 Respondents' opposition rests almost entirely on the assertion that Petitioner
9 is subject to mandatory detention under 8 U.S.C. § 1226(c) based on an alleged
10 arrest under California Penal Code § 273.5(a). However, Respondents omit critical
11 facts demonstrating that no criminal prosecution was ever initiated and that the
12 allegations were insufficient to support criminal charges.
13

14 Petitioner appeared before the criminal court, and no criminal complaint was
15 ever filed. (Exhibit A). The Office of the District Attorney expressly informed
16 Petitioner's counsel that the matter was rejected for prosecution and that the
17 government would not seek criminal charges. Petitioner possesses certified court
18 records confirming that no criminal case exists. (Exhibit B).
19
20

21 Accordingly, Respondents rely solely on an unproven arrest allegation
22 unsupported by any criminal filing, judicial finding, conviction, police report, or
23 admissible evidence of violence. The Government cannot justify prolonged
24 detention based merely on unsubstantiated allegations that were rejected by
25 prosecuting authorities.

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II.

**RESPONDENTS FAIL TO ESTABLISH THAT PETITIONER IS SUBJECT
TO MANDATORY DETENTION**

Respondents contend that Petitioner falls within 8 U.S.C. § 1226(c)(1)(E) because he was “arrested for” an offense involving bodily injury. However, the record demonstrates that the underlying criminal matter was never prosecuted. Critically, no criminal complaint was filed, no arraignment on criminal charges occurred, no judicial finding of probable cause was made, no conviction exists, the District Attorney rejected the case outright, and no police reports or admissible evidence establishing violence have been produced.

The Government’s reliance on an arrest alone is insufficient where the prosecuting authority itself declined to proceed. The absence of formal charges substantially undermines Respondents’ assertion that Petitioner presents a danger or falls within the intended scope of mandatory detention.

Moreover, Respondents have not submitted any police report, declaration, witness statement, or evidentiary material establishing that any violent conduct actually occurred. Instead, the Government relies exclusively on unsupported references to an arrest contained in immigration paperwork.

An arrest without prosecution does not establish dangerousness. Nor does it satisfy constitutional due process requirements where liberty is at stake.

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III

**THE GOVERNMENT HAS NOT ESTABLISHED THAT THE LAKEN
RILEY ACT APPLIES TO PETITIONER**

Respondents argue that Petitioner is subject to mandatory detention pursuant to the recently amended provisions of 8 U.S.C. § 1226©, commonly referred to as the “Laken Riley Act,” because Petitioner was allegedly arrested for a violation of California Penal Code § 273.5(a). However, the Government has failed to establish that the statute applies under the facts presented here.

The Government’s position relies entirely upon an unproven arrest allegation. As stated above. Although the amended statutory language references certain arrests, the Government cannot constitutionally impose mandatory civil detention solely on the basis of unsubstantiated accusations that prosecutors themselves determined were insufficient to pursue.

IV

**THE TEXT OF § 1226(c)(1)(E) DOES NOT ELIMINATE DUE PROCESS
REQUIREMENTS**

The Government cites § 1226(c)(1)(E), which mandates detention of certain noncitizens who are “inadmissible” and who are “charged with, arrested for,

1 convicted of, admit having committed, or admit committing acts which constitute
2 the essential elements” of specified offenses.
3

4 However, the mere existence of an arrest does not automatically resolve the
5 constitutional inquiry. Civil immigration detention remains subject to the Due
6 Process Clause of the Fifth Amendment.
7

8 The Government’s interpretation would permit mandatory detention based
9 solely upon an unverified allegation, unsupported police suspicion, or even a
10 mistaken arrest, without judicial scrutiny or evidentiary reliability.
11

12 Such an interpretation raises serious constitutional concerns because it
13 would authorize deprivation of liberty absent any meaningful factual
14 determination.
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16 Courts construe statutes to avoid constitutional infirmities where possible.
17 Accordingly, § 1226(c)(1)(E) should not be interpreted to authorize mandatory
18 detention where prosecution was affirmatively rejected, no criminal case exists,
19 and the Government cannot produce reliable evidence supporting the alleged
20 conduct.
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V

**THE DISTRICT ATTORNEY'S REJECTION OF THE CASE
UNDERMINES ANY CLAIM OF DANGEROUSNESS**

Respondents repeatedly characterize Petitioner as subject to mandatory detention due to alleged violent conduct. Yet the prosecuting authority, the very entity responsible for determining whether criminal conduct can be proven, declined to file charges.

That fact is highly significant. A prosecutorial rejection demonstrates that available evidence was insufficient, probable cause may have been lacking, or the allegations were otherwise unreliable.

The Government cannot simultaneously argue that Petitioner presents sufficient danger to justify mandatory detention while the District Attorney concluded the matter should not proceed criminally.

Moreover, Respondents submitted no police reports, witness declarations, medical records, or other evidence establishing that violence occurred. The Government instead relies exclusively on immigration intake documents and references to an arrest.

An arrest alone is not proof of dangerousness.

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VI

**THE LAKEN RILEY ACT SHOULD NOT BE APPLIED
MECHANICALLY WITHOUT INDIVIDUALIZED REVIEW**

Even assuming the statute facially applies, due process requires individualized review where detention is prolonged or where the factual basis for detention is disputed.

Here Petitioner disputes the underlying allegations no criminal charges exist, no conviction exists, and the prosecution was rejected entirely.

Under these circumstances, automatic detention without a bond hearing violates fundamental due process principles because there has been no neutral adjudication establishing dangerousness or flight risk.

The Constitution requires more than mere reference to an abandoned arrest allegation.

VII

**THE GOVERNMENT'S INTERPRETATION CREATES SERIOUS DUE
PROCESS CONCERNS**

If Respondents' interpretation were accepted, any noncitizen could become subject to mandatory detention based solely upon an arrest unsupported by

1 evidence, allegations later disproven, or accusations prosecutors immediately
2 reject.

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4 Such a framework creates an extraordinary risk of erroneous deprivation of
5 liberty and conflicts with basic constitutional protections.

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7 The Supreme Court has repeatedly recognized that civil detention must bear
8 a reasonable relation to its purpose and must include adequate procedural
9 safeguards. Mandatory detention based solely upon rejected criminal allegations
10 lacks sufficient procedural reliability.

11 VIII

12 **DUE PROCESS REQUIRES AN INDIVIDUALIZED BOND HEARING**

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14 Even assuming arguendo that § 1226(c) applies, due process still requires an
15 individualized determination where detention becomes unreasonable or
16 unsupported by reliable evidence.

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18 Petitioner has now been detained for a prolonged period without any
19 meaningful opportunity to challenge the factual basis underlying his detention. The
20 Government's position is especially troubling because the underlying criminal
21 allegation was affirmatively rejected by the prosecuting authority.
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1 The Due Process Clause does not permit continued detention based on allegations
2 that were never formally charged, were rejected by prosecutors, and are
3 unsupported by any evidentiary record.
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5 At minimum, Petitioner is entitled to a bond hearing before an Immigration
6 Judge where the Government bears the burden of proving dangerousness or flight
7 risk by clear and convincing evidence.
8

9 IX

10 **RESPONDENTS' RELIANCE ON EXHAUSTION IS MISPLACED**

11 Respondents also argue that Petitioner failed to exhaust administrative
12 remedies because counsel withdrew the custody redetermination request before the
13 Immigration Judge.
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15 However, exhaustion is prudential, not jurisdictional, in this context. Courts
16 retain discretion to waive exhaustion where administrative remedies are inadequate
17 or futile, particularly where constitutional claims are raised.
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19 Here, requiring exhaustion would serve no meaningful purpose because the
20 central issue is constitutional due process, the factual basis for detention is legally
21 deficient, and Petitioner challenges the legality of continued detention absent
22 reliable evidence supporting mandatory custody.
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