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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Juan Ramirez Garcia,


Petitioner,

v.

Todd Blanche, U.S. Attorney General;

Markwayne Mullin, Secretary of the U.S.
Department of Homeland Security;

Christopher Chestnut, Warden of California
City Immigration Processing Center;

Moises Becerra, ICE Field Office Director of
the San Francisco Field Office,

Respondents

Case No. 1:26-cv-5169

PETITIONER'S REPLY
AND OPPOSITION TO
RESPONDENTS'
MOTION TO DISMISS

IMMIGRATION HABEAS
CASE

I. Introduction

On July 9, 2026, Respondents, through counsel, filed a Motion to Dismiss Petition For Writ of Habeas Corpus and Response to Order to Show Cause. In the motion, Respondents argue Petitioner is subject to mandatory pre-order detention under 8 U.S.C. § 1225. Petitioner submits this reply and opposition to Respondent's motion to dismiss. Petitioner contends that he is not subject to mandatory detention under § 1225, that his due process rights have been violated such that his detention is unlawful, and that exhaustion of administrative remedies is not required.

II. Petitioner is Not Subject to Mandatory Detention

To reiterate the legal framework explained in the habeas petition, the INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. § 1229a. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in § 1229a removal proceedings before an IJ. Second, the INA provides for mandatory detention of noncitizens subject to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted pursuant to § 1225(b)(2). Lastly, INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

Following the enactment of the IIRIRA, EOIR drafted new regulations

1 applicable to proceedings before immigration judges explaining that, in general,
2 people who entered the country without inspection – also referred to as being
3 “present without admission” – were detained under § 1226(a). *See* Inspection and
4 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of
5 Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6,
6 1997).
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9 As explained in *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL
10 1193850 at *12 (W.D. Wash. Apr. 24, 2025), the plain text of the statutory
11 provisions demonstrates that § 1226(a) applies by default to all persons “pending a
12 decision on whether the [noncitizen] is to be removed from the United States.”
13 Other portions of the text of § 1226 also explicitly apply to people charged as being
14 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
15 1226(c)(1)(E). Section 1226 therefore leaves no doubt that it applies to noncitizens
16 who are present without admission and who face charges of being inadmissible to
17 the United States.
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21 By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
22 who recently entered the United States and are encountered at or near an
23 international border. The statute’s entire framework is premised on inspections at
24 the border of people who are “seeking admission” to the United States. 8 U.S.C. §
25 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
26 detention scheme applies “at the Nation’s borders and ports of entry, where the
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1 Government must determine whether a[] [noncitizen] seeking to enter the country is
2 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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4 Accordingly, the mandatory detention provision of § 1225(b)(2) does not
5 apply to people like Petitioner who has already entered and was residing in the
6 United States at the time he was apprehended.

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8 The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply
9 to Petitioner or other noncitizens present and residing in the United States who are
10 placed under § 1229a removal proceedings and charged with inadmissibility
11 pursuant 8 U.S.C. § 1182(a)(6)(A)(i). As relevant here, § 1225(b)(2) does not apply
12 to those who previously entered the country and have been present and residing in
13 the United States prior to being apprehended and placed in removal proceedings by
14 Respondents. Such noncitizens may only be detained pursuant to § 1226(a), unless
15 subject to § 1226(c), or § 1231. The application of § 1225(b)(2) to Petitioner
16 unlawfully mandates his continued detention without a bond hearing and violates 8
17 U.S.C. § 1226(a).

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19 In the motion to dismiss, Respondents seem to argue that Petitioner’s
20 criminal history is somehow relevant to the statutory framework that governs his
21 detention. To be clear, Petitioner does have a criminal history that consists of one
22 DUI conviction from 2003 for which he was sentenced to 3 years of probation, one
23 spousal battery conviction from 2022 for which he was sentenced to 6 days in jail
24 and 3 years of probation, and one reckless driving conviction from 2025 for which

1 he was sentenced to 4 days in jail and 12 months of probation. While 8 U.S.C. §
2 1226(c) provides that individuals who are inadmissible and commit certain crimes
3 are subject to mandatory detention, the offenses for which Petitioner has been
4 convicted do not fall into any of these categories. Contrary to the Respondents'
5 indications, these three convictions do not have any impact on the statutory
6 framework that governs his detention.
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9 Moreover, despite his criminal convictions, Petitioner still has a fundamental
10 interest in liberty and being free from official restraint. All persons in the United
11 States, "including aliens, whether their presence here is lawful, unlawful,
12 temporary, or permanent," are entitled to protection under the Fifth Amendment of
13 the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from
14 imprisonment—from government custody, detention, or other forms of physical
15 restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Id.* at
16 690; *see also United States v. Salerno*, 481 U.S. 739, 755 (1987) ("In our society
17 liberty is the norm, and detention prior to trial or without trial is the carefully
18 limited exception."). "Even individuals who face significant constraints on their
19 liberty or over whose liberty the government wields significant discretion retain a
20 protected interest in their liberty." *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032
21 (N.D. Cal. 2025) (collecting cases).
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24 In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Supreme Court established
25 three factors for a court to consider for purposes of determining what process is
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1 constitutionally sufficient to protect a liberty interest: The private interest that will
2 be affected by the official action; the risk of an erroneous deprivation of such
3 interest through the procedures used, and the probable value, if any, of additional or
4 substitute procedural safeguards; and the Government's interest, including the
5 function involved and the fiscal and administrative burdens that the additional or
6 substitute procedural requirement would entail. *Id.* at 335; *see Rodriguez Diaz v.*
7 *Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (applying Mathews to due process
8 challenge to immigration detention, and noting that "Mathews remains a flexible
9 test that can and must account for the heightened governmental interest in the
10 immigration detention context"); *López v. Wofford*, Case No. 1:25-cv-01226-KES-
11 SKO (HC), 2025 WL 2959319, at *6 (E.D. Cal. Oct. 17, 2025) (collecting cases
12 extending *Mathews* "to the context of immigration detention").

17 Petitioner has resided in the United States for twenty-six (26) years. During
18 that time, he has lived at a stable address and has worked hard to support himself
19 and his six children. His removal proceedings are ongoing in immigration court
20 where he is pursuing relief from removal. Petitioner has a substantial private
21 interest in remaining free from detention, living in his home with his children,
22 engaging in employment and generally participating in the community, all while
23 out of custody. Accordingly, Petitioner's liberty interest in remaining out of
24 custody is protected under the Due Process Clause. *See e.g., Cruz v. Lyons*, Case
25 No. 5:25-cv 02879-MCS-MBK, 2025 WL 4051129, at *3 (C.D. Cal, Nov. 6, 2025)
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1 (finding the petitioner had a protectable liberty interest in remaining on supervised
2 immigration release); *C.A.R.V. v. Wofford*, Case No. 1:25-CV-01395 JLT SKO,
3 2025 WL 3059549, at *10 (E.D. Cal. Nov. 1, 2025) (finding the petitioner had a
4 constitutionally protected liberty interest in remaining out of ICE custody based on
5 the “approximately four years on parole” preceding his re-detention).
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8 Petitioner’s detention without a constitutionally compliant bond hearing
9 presents an unacceptable risk that the government would erroneously deprive
10 Petitioner of his liberty interest. Civil immigration detention is permissible only to
11 prevent flight or reduce the risk of danger to the community. *Zadvydas*, 533 U.S. at
12 690-91.
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14 As for the third *Mathews* factor, “any fiscal or administrative burden on the
15 additional procedural safeguard of a hearing before neutral adjudicator imposes on
16 the Government is at most minimal’[.]” *Sun v. Santa Cruz*, Case No. 5:25-cv-
17 02198-JLS-JC, 2025 WL 2730235, at *6 (C.D. Cal. Aug. 26, 2025) (citation
18 omitted); see *Mourey v. Bowen*, Case No. 5:25-cv-03262-WLH (DTB), 2026 WL
19 467567, at *4 (C.D. Cal. Jan. 31, 2026) (“Pursuant to the holding in *Mathews*,
20 Petitioner should have been afforded a pre-detention hearing.”), *report and*
21 *recommendation adopted*, 2026 WL 464788 (C.D. Cal. Feb. 17, 2026).
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25 Petitioner contends that he is not subject to mandatory detention under §
26 1225 and that his due process rights have been violated such that his detention is
27 unlawful.
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III. Exhaustion is Not Required

Exhaustion is inappropriate where, as here, Petitioner is asserting a violation of his Fifth Amendment substantive due process rights. Because Petitioner asserts constitutional substantive due process claims that are beyond the jurisdiction of the immigration court and Board of Immigration Appeals (BIA), exhaustion is not required. *Garcia-Ramirez v. Gonzales*, 423 F.3d 935, 938 (9th Cir. 2005) (“Because the BIA does not have jurisdiction to resolve constitutional challenges, ... due process claims – other than those only alleging ‘procedural errors’ within the BIA’s power to redress – are exempt” from exhaustion.).

Even if exhaustion were an option here, on habeas review pursuant to § 2241, exhaustion is merely prudential, rather than jurisdictional. *Arango-Marquez v. INS*, 346 F.3d 892, 897 (9th Cir. 2003). Courts retain discretion over whether to require prudential exhaustion and may exercise discretion to waive a prudential exhaustion requirement where “irreparable injury will result.” *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Requiring Petitioner to exhaust administrative remedies will result in irreparable injury by subjecting him to continued violation of his constitutional rights.

IV. Petitioner Seeks Immediate Release

Petitioner contends that the appropriate remedy here is release. This Court should order a remedy that fully addresses the statutory and constitutional

1 violations in this case and is efficient to administer. *Carafas v. LaVallee*, 391 U.S.
2 234, 238 (1968) (the habeas statute “does not limit the relief that may be granted to
3 discharge of the applicant from physical custody. Its mandate is broad with respect
4 to the relief that may be granted”). Release is the customary remedy in habeas
5 proceedings. *See* 28 U.S.C. § 2243 (the habeas should shall “dispose of the matter
6 as law and justice require.”); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)
7 (finding “that the traditional function of the writ is to secure release from illegal
8 custody”).

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12 The most appropriate remedy in a case like this, where Petitioner is being
13 detained in violation of due process, is release on recognizance without further
14 conditions of release. *See Ambroladze v. Maldonado*, No. 26-CV-00474 (HG),
15 2026 WL 280182, at *3 (E.D.N.Y. Feb. 3, 2026) (“the government’s ongoing
16 detention of Petitioner, in the face of yet another complete failure of process,
17 entitles him to immediate release.”)

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20 Next, Petitioner contends that in the alternative, the habeas court can hold its
21 own custody hearing and determine whether ICE can prove by clear and convincing
22 evidence that Petitioner must remain in custody, or whether he may be released on
23 recognizance, an appropriate bond in light of his ability to pay, or supervised
24 release. *See L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025)
25 (ordering a bond hearing held by the habeas court, as this would be more efficient
26 than delegating the task to the agency and ensure proper constitutional oversight).
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1 **V. Conclusion**

2 With the foregoing reply, Petitioner requests that this Court proceed on the
3 merits of the petition and issue a writ of habeas corpus requiring Petitioner's release.
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5 **RESPECTFULLY SUBMITTED this 10th day of July, 2026**

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