UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SEDAT ASLAN,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

No. 26-cv-00085

ORDER

THIS MATTER comes before the Court by way of a Petition for Writ of Habeas Corpus, (ECF No. 1), and the Court's prior January 7, 2026 Order. (ECF No. 3); and

WHEREAS, Petitioner Sedat Aslan, a native and citizen of the Republic of Türkiye, arrived in the United States on or about November 2, 2024 and encountered U.S. Border Patrol at or near the border on or about November 3, 2024. He was detained and promptly placed in removal proceedings, after which an asylum officer found he had established a credible fear, and he was served with a Notice to Appear initiating removal proceedings under 8 U.S.C. § 1229a. Respondents thereafter paroled Petitioner into the United States on January 3, 2025, and Petitioner filed an I-589 application for asylum on January 29, 2025. Since then, he has maintained compliance with the conditions of his release and has no criminal history;[1] and

WHEREAS, notwithstanding the foregoing and with Petitioner's removal proceedings still ongoing and no final order of removal having been entered, ICE arrested and re-detained

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[1] Respondents admit many of the facts set forth in the Petition and herein but claim they lack sufficient knowledge to respond to other allegations such as Petitioner's compliance with parole conditions and his lack of criminal history. Given Respondents' failure to fully comply with the Court's Order, *see* n. 2 *infra*, and provide the most basic necessary facts, the Court deems these facts undisputed.

Petitioner on January 5, 2026, without providing him any bond hearing or other individualized custody determination following his re-detention; and

WHEREAS, on January 7, 2026, this Court ordered Respondents to file an expedited answer by January 9, 2026, at 1:00 p.m., identifying, among other things, the specific statutory or other legal authority for Petitioner's re-detention; the procedural due process afforded prior to re-detention; whether a final order of removal exists; any alleged changed circumstances justifying re-detention; whether Petitioner has received a bond hearing; and the current status of all related immigration proceedings; and

WHEREAS, Respondents filed an answer and letter response on January 9, 2026, which they acknowledge is incomplete and does not fully respond to the Court's Order.[2] (ECF No. 7 at 2). Additionally, Respondents acknowledge that the statutory arguments and facts in this case are materially identical to those that the Court has already rejected in *Rodriguez v. Rokosky*, No. 25-17419, 2025 WL 3485628 (D.N.J. Dec. 3, 2025) and other cases. (*Id.* at 3); and

WHEREAS, it appears to the Court, at a minimum, that Petitioner is being unlawfully detained under Respondents' repeated invocation of 8 U.S.C. § 1225 because, as set forth in this Court's recent decision in *Bethancourt Soto v. Soto*, ____ F. Supp. 3d _____, No. 25-16200, 2025 WL 2976572 (D.N.J. Oct. 22, 2025), Petitioner was apprehended inside the United States after

[2] While the Court acknowledges the efforts of the United States Attorneys' Office to comply with this Court's Orders in this and other matters involving the sudden re-detention of non-citizens, the Court is alarmed by Respondents' persistent and unjustified failure, better characterized as willful refusal or ineptness, to comply with lawful orders of federal district courts. This is just one of many instances in which Respondents have done so. Such conduct reflects a blatant disregard for judicial authority, undermines the administration of justice, and raises substantial questions as to Respondents' commitment to the rule of law. If Respondents are not prepared to provide the Court with the most basic information necessary to permit meaningful judicial review of a non-citizen's re-detention, then they should reconsider whether their current detention practices can be lawfully sustained.

residing here for an extended period, and therefore he should have been detained under 8 U.S.C. § 1226, which requires an opportunity to seek bond; and

WHEREAS, the Court notes that federal courts have in near unanimity similarly rejected the Government's position in approximately 300 cases to date, a number which climbs with every passing day. *See, e.g., Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *4–5 (E.D. Pa. 2025) (noting "the law is clear" and that "of the 288 district court decisions to address the issue, 282 have determined that § 1226(a) applies or likely applies in situations similar to those presented here. Those decisions are plainly correct."); *see also* App., *Demirel,* 2025 WL 3218243 (ECF No. 11-1) (collecting cases); and

WHEREAS, therefore "Petitioner's arrest and detention were blatantly unlawful from the start, the only commensurate and appropriate equitable remedy to even partially restore [Petitioner] is to immediate release him and enjoin the Government from further similar transgressions," *see, e.g.*, *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 366, 371–73 (S.D.N.Y. 2019) ("[T]he Supreme Court has repeatedly upheld prisoners' rights to challenge the constitutionality of their detentions, and allow[ed] courts to implement corrective remedies, regardless of whether there were other bases for the petitioners to be subsequently detained."); the Court declines to allow Respondents to transform an unlawful detention into a lawful one through alternative, retrospective, *post hoc* justification presented mid-litigation, as doing so would give the Government a free pass to violate a person's statutory and constitutional rights first and search for authority later, *see, e.g.*, *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379, at *7 & n.4 (E.D. Mich. Aug. 29, 2025) (citing cases) ("The Court cannot credit this new position that was adopted *post-hoc,* despite clear indication that Lopez-Campos was not detained under this provision."); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 486 (S.D.N.Y. 2025) (releasing petitioner and explaining that the court

"cannot credit Respondents' new position as to the basis for . . . detention, which was adopted *post hoc* and raised for the first time in this litigation"); *Arias Gudino v. Lowe*, 785 F. Supp. 3d 27, 46 n.8 (M.D. Pa. 2025) (releasing petitioner and discussing the impropriety of allowing the government to proceed on "*post hoc* justifications for detention"); *cf. Marshall v. Lansing*, 839 F.2d 933, 943–44 (3d Cir. 1988) ("[W]hen reviewing an administrative agency's decision, a court is generally not seeking some hypothetical rational support for the agency's action. A court must review the agency's actual on-the-record reasoning process . . . not a *post hoc* rationalization, or agency counsel's in-court reasoning."); therefore

IT IS, on this 9th day of January, 2026,

ORDERED that Petitioner's § 2241 Petition is **GRANTED**; Respondents shall **on this date IMMEDIATELY RELEASE** Petitioner under the same conditions that existed prior to his re-detention; and it is further

ORDERED that Respondents shall file a letter on the docket confirming the date and time of Petitioner's release; and it is further

ORDERED that Respondents are **PERMANENTLY ENJOINED** from rearresting or otherwise detaining Petitioner under § 1225, which this Court has found inapplicable to him; and it is further

ORDERED that any future detention or re-detention of Petitioner must comply with all statutory and constitutional requirements, including the identification of a lawful statutory basis for detention and the provision of adequate procedural and substantive due process; and it is further

ORDERED that, to the extent that Respondents seek to re-arrest or otherwise re-detain Petitioner under any statutory authority, including but not limited to §§ 1225 or 1226, this Court shall retain jurisdiction over the matter and Petitioner may move to reopen these proceedings

before this Court without the need to file a new habeas petition; and it is further

ORDERED that the hearing previously scheduled for January 9, 2026, at 4:00 p.m. is **CANCELED**; and it is finally

ORDERED that the Clerk of the Court shall **CLOSE** this case.

CHRISTINE P. O'HEARN
United States District Judge