

District Judge Marsha J. Pechman
Magistrate Judge Gary L. Leupold

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Alfredo PARADA CALDERON,

Petitioner,

v.

Drew BOSTOCK, Field Office Director of
Enforcement and Removal Operations, Seattle
Field Office, et al.,

Respondents.

Case No. 2:24-cv-01619-MJP-GJL

**PETITIONER’S OBJECTIONS TO
THE REPORT AND
RECOMMENDATION**

Noted on Motion Calendar: January 31,
2025

1 INTRODUCTION

2 Petitioner Alfredo Parada Calderon (Mr. Parada) agrees with the Report and
3 Recommendation (R&R) in all aspects apart from two points. While these points do not affect
4 the outcome of R&R’s proposed order, Petitioner respectfully submits objections tailored to
5 these two points as they present important, developing issues. Specifically, the R&R
6 (1) considers criminal history factors that due process caselaw demonstrates should not be
7 considered, and (2) declines to consider detailed, uncontested evidence regarding the conditions
8 of detention that individuals face at the Golden State Annex.¹ The Court reviews the objected to
9 portions of the R&R de novo. *See* 28 U.S.C. § 636(b)(1)(B); *Dawson v. Marshall*, 561 F.3d 930,
10 932 (9th Cir. 2009).

11 ARGUMENT

12 **I. The Proper Test for a Due Process Challenge to Detention under 8 U.S.C. § 1226(c)
13 Does Not Require the Court to Look at Criminal History.**

14 The R&R applies an eight-factor test from *Martinez v. Clark*, No. 2:18-cv-1669-RAJ-
15 MAT, 2019 WL 5968089 (W.D. Wash. May 23, 2019), *R&R adopted*, 2019 WL 5962685 (W.D.
16 Wash. Nov. 13, 2019), to determine whether Mr. Parada’s continued detention violates due
17 process without a bond hearing. Dkt. 14 at 9. However, in his response, Mr. Parada challenged
18 aspects of that test, explaining that the correct analysis excludes criminal history factors. *See*
19 Dkt. 11 at 12–14; *see also* Dkt. 1 ¶ 82 (requesting that the Court apply a six-factor test from
20 *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019)). Specifically, Mr. Parada
21 explained that the Supreme Court’s civil detention case law uniformly demonstrates that criminal

22 _____
23 ¹ In addition, while Mr. Parada does not object to addition of the Golden State Annex Warden to this case, *see* Dkt.
24 14 at 17, he submits that this course of action is unnecessary. As he detailed in his response and traverse, the transfer
in this case does not deprive the Court of jurisdiction. Under longstanding precedent, the Court has the authority to
order the supervisory respondents in this case to comply to with any writ of habeas corpus the Court issues. *See* Dkt.
11 at 3–8.

1 history—while certainly relevant *at* a bond or custody hearing—is not relevant to assessing
2 whether an individual must receive a bond hearing in the first place. Dkt. 11 at 12–14. The
3 government had no response to this argument. *See generally* Dkt. 13. Notably, this issue was not
4 litigated in *Martinez*, which simply assumed those factors apply. Mr. Parada thus respectfully
5 requests that the Court resolve the issue here to clarify the correct test in prolonged immigration
6 detention cases.

7 **II. The Factor Regarding Conditions of Detention Favors Mr. Parada.**

8 The R&R also concludes that the factor regarding conditions of detention is neutral. The
9 R&R reaches this recommendation because Mr. Parada submitted a declaration from a
10 practitioner who regularly assists and represents people at the Golden State Annex (GSA), rather
11 than a second declaration from Mr. Parada himself. *See* Dkt. 14 at 12.

12 Mr. Parada respectfully submits that the declaration he submitted should not have been
13 disregarded. That declaration provided a detailed basis to demonstrate how the conditions at
14 GSA are “similar to [and in fact much worse than] those in many prisons and jails,” despite Mr.
15 Parada’s ostensible status as a “civil” detainee. *Diaz Reyes v. Wolf*, No. C20-0377-JLR-MAT,
16 2020 WL 6820903, at *7 (W.D. Wash. Aug. 7, 2020) (alteration and citation omitted), *R&R*
17 *adopted as modified*, No. C20-0377JLR, 2020 WL 6820822 (W.D. Wash. Nov. 20, 2020). In
18 response, the government did not contest this evidence, and merely stated that it was not
19 evidence of Mr. Parada’s conditions. Dkt. 13 at 5–6. That argument does not make sense, as the
20 submitted testimony concerns conditions at GSA—the very place Mr. Parada is detained.
21 Moreover, that uncontested testimony explains that GSA *is a former prison*, Dkt. 12, Patel Decl.
22 ¶ 4, making clear that the facility by design is not “civil” in nature. Furthermore, the declaration
23 provided voluminous evidence regarding widespread conditions issues for detainees at the
24

1 facility, including maggots, insects, and cockroaches in their food, *id.* ¶¶ 11, 23, days and weeks
2 without footwear, *id.* ¶¶ 6, 11, unprovoked harassment by guards (e.g., use of pepper spray), *id.* ¶
3 8, humiliating strip searches, *id.*, lack of meaningful access to counsel, *id.* ¶¶ 14–17, and other
4 degrading and dehumanizing treatment, *see generally id.* ¶¶ 4–24. Neither the R&R nor the
5 government explain why the only evidence regarding conditions can come from Mr. Parada,
6 particularly when the government did not submit its own evidence to challenge or contradict the
7 conditions attested to at the facility.

8 Accordingly, Mr. Parada submits that the Court should adopt the R&R’s recommendation
9 in all aspects other than these two factors. Petitioner respectfully submits that the correct analysis
10 as to these two factors strengthens the legal basis for Mr. Parada’s bond hearing—a fact that is
11 particularly important if the Court grants the writ and the government decides to appeal.

12 **CONCLUSION**

13 Mr. Parada asks that the Court amend the recommended order with respect to the
14 criminal history and conditions of detention factors, but otherwise adopt the R&R’s proposed
15 order.

16 Dated this 31st of January, 2025.

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WORD COUNT CERTIFICATION

Pursuant to Local Civil Rule 7, I certify that the foregoing filing has 849 words and complies with the word limit requirements of Local Civil Rule 72.

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