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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

M-J-M-A-,

Case No.: 6:25-cv-02011-MTK

Petitioner,

v.

**RESPONDENTS' OBJECTION TO
EVIDENTIARY HEARING**

**LAURA HERMOSILLO;¹ TODD
LYONS; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT;
KRISTI NOEM; U.S. DEPARTMENT
OF HOMELAND SECURITY;
PAMELA BONDI,**

Respondents.

Respondents submit this standing objection to the evidentiary hearing.

¹ Laura Hermosillo should be substituted for Cammilla Wamsley as a party in this action. See Fed. R. Civ. P 25(d).

BACKGROUND

On October 30, 2025, Petitioner filed a Petition for Writ of Habeas Corpus (“Petition”) challenging the stop of her vehicle, her arrest, and her detention as unlawful under the Fourth Amendment, the Fifth Amendment, and the Administrative Procedure Act.² *See* ECF No. 1, Petition. At a scheduling conference the following day, the Court announced a briefing schedule and asked the parties whether they desired an evidentiary hearing. Counsel for MJMA said that he anticipated examining MJMA and any ICE officers who submitted a declaration in support of the government’s briefing. Oct. 31 Hr’g Tr. 20:7–20:17. Following the scheduling conference, the Court issued a formal order for an evidentiary hearing to occur on December 2, 2025. ECF No. 13 at 4, Oct. 31 Order.

On November 5, 2025, Respondents filed a Return to the Habeas Petition (“Return”), ECF No. 25, and supporting Declaration of Assistant Field Office Director Matthew Cantrell (“Cantrell Decl.”). ECF No. 26. The Return noted that Petitioner is neither in detention nor in removal proceedings, and argued that Petitioner’s remaining claims based on an unlawful stop and arrest are not cognizable in habeas corpus and therefore must be denied. *Id.* p. 5.

The Court has ordered an evidentiary hearing requiring the following people to attend: “(1) Petitioner; (2) the agent(s) or officer(s) involved in Petitioner’s arrest; (3) the agent(s) or officer(s) involved in the alleged deprivation of counsel, including

² Petitioner later added a claim alleging denial of access to counsel.

the refusal to allow additional time for Petitioner to speak with counsel; and (4) anyone else with knowledge of the basis for Petitioner's detention." ECF No. 23 at 3.

OBJECTION

It is undisputed that a district court has the power to hold an evidentiary hearing to decide a habeas petition. *See Mangana-Pizano v. INS*, 200 F.3d 603, 610 (9th Cir. 1999) (remanding case to district court for an evidentiary hearing where petition raised factual questions). But "an evidentiary hearing is not required if . . . the petitioner raises only legal claims that can be resolved without the presentation of additional evidence." *United States v. Tubwell*, 37 F.3d 175, 179 (5th Cir. 1994); *see Aydiner v. Giusto*, 401 F. Supp. 2d 1129, 1136 (D. Or. 2005) (denying request for evidentiary hearing where petitioner sought to develop facts that did not bear on whether petitioner was entitled to relief); *al-Baluchi v. Austin*, 691 F. Supp. 3d 133, 149 (D.D.C. 2023) (finding an evidentiary hearing unnecessary where parties' disagreements about medical care at Guantanamo did not affect the legal question of whether petitioner was entitled to a Mixed Medical Commission); *see also Ibanga v. Holder*, 3:13-cv-2546-GPC, 2014 WL 1912730, at *8 (S.D. Cal. May 13, 2014) (denying request for evidentiary hearing where "on the undisputed facts it appear[ed] as a matter of law that petitioner [was] not entitled to relief").

Respondents respectfully object to the Court holding an evidentiary hearing in this matter. Petitioner's challenge to her arrest and access to counsel may be resolved on its legal merits without an evidentiary hearing. As discussed in Respondents' Return, a challenge to an unlawful arrest cannot properly be brought in habeas

petition. Similarly, a habeas petition is not an appropriate vehicle for a claim for denial to access to counsel. Whether these claims survive does not require factual findings because the circumstances surrounding Petitioner’s arrest do not affect the legal question itself. *Cf. Aydiner*, 401 F. Supp. 2d at 1136; *al-Baluchi*, 691 F. Supp. 3d at 149. As the Ninth Circuit and other courts have observed, claims of unlawful immigration arrest and denial of access to counsel “are not appropriately raised in a habeas petition.” *L-J-P-L- v. Wamsley*, No. 3:25-cv-01390-IM, 2025 WL 2430268, at *6 n.3 (D. Or. Aug. 22, 2025); *see also Streeter v. Craven*, 418 F.2d 273, 274 (9th Cir. 1969) (“[D]efects in an arrest are not cognizable in habeas corpus”); *H.N. v. Warden, Stewart Det. Ctr.*, No. 7:21-CV-59-HL-MSH, 2021 WL 4203232, at *5 (M.D. Ga. Sept. 15, 2021) (finding that Petitioner was not entitled to habeas relief even if his immigration stop was unlawful because identity is never suppressible in immigration proceedings); *Rodrigues De Oliveira v. Joyce*, No. 2:25-cv-00291-LEW, 2025 WL 1826118, at *5 (D. Me. July 2, 2025) (“Petitioner’s argument that an illegal arrest automatically results in an illegal detention is misguided.”).

A habeas proceeding determines whether a petitioner is unlawfully confined, not whether every aspect of the government’s actions around the confinement was lawful. As the Supreme Court explained in *United States ex rel. Bilokumsky v. Tod*, “[a] writ of habeas corpus is not like an action to recover damages for an unlawful arrest or commitment, but its object is to ascertain whether the prisoner can lawfully be detained in custody; and if sufficient ground for his detention by the government

is shown, he is not to be discharged for defects in the original arrest or commitment.” 263 U.S. 149, 158 (1923) (citation omitted). The available remedy – release from confinement – “is . . . not the appropriate remedy for these alleged violations.” *L-J-P-L-*, 2025 WL 2430268, at *6 n.3.

A petitioner still might challenge the government’s actions through a damages claim. In those actions, the Federal Rules of Civil Procedure govern, and the parties are afforded ample opportunity to discover and test the relevant facts and legal theories under timeframes and procedures that ensure fairness to both parties. In this habeas action, the extremely accelerated timeframe for discovery and presentation of evidence risks prejudice to Respondents in any subsequent action for damages.

Respondents submit this standing objection to the evidentiary hearing.

Respectfully submitted this 1st day of December, 2025.

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