

1 Bashir Ghazialam (CA Bar No. 212724)  
2 LAW OFFICES OF BASHIR GHAZIALAM  
3 P.O. Box 928167  
4 San Diego, California 92192  
5 Tel: (619) 795-3370  
6 Fax: (866) 685-4543  
7 bg@lobg.net

8 Attorney for Petitioner

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 HASHMAT FAIZI,

12 Petitioner-Plaintiff,

13 v.

14 CHRISTOPHER J. LAROSE, et al.

15 Respondents-Defendants.

Case No.: 3:25-cv-02974-JO-MSB

**NOTICE OF SUPPLEMENTAL  
AUTHORITY**

Date: November 13, 2025

Time: 9:00

Judge: Hon. Jinsook Ohta

1 On November 12, 2025, the Honorable Judge Robert S. Huie granted a petition for  
2 writ of habeas corpus requesting an individualized bond hearings before an immigration  
3 judge to a citizen of Afghanistan detained by U.S. Customs and Immigration  
4 Enforcement (“ICE”) at the Otay Mesa Detention Center in San Diego, California since  
5 December 12, 2024 and charged as being removable as an arriving alien. *Hamideh*  
6 *Sadeqi v. LaRose et al.*, No. 3:25-cv-02587-RSH-BJW (S.D. Cal.), ECF No. 13 (attached  
7 as Exhibit A).

9 Similar to the Petitioner here, Ms. Sadeqi’s individual merits hearing has been  
10 postponed more than once; and she states that her merits hearing was reassigned to a  
11 different immigration judge. *Id.* at 13:2. Ms. Sadeqi’s merits hearing ultimately began on  
12 August 26, 2025, but due to time restraints was not completed on that day and has been  
13 continued to December 2, 2025. *Id.*

15 Judge Huie agreed with Ms. Sadeqi’s contention that she is not removable in the  
16 reasonably foreseeable future, and on that basis her continued detention without any  
17 consideration of bond violates her right to due process. *Id.* at 13:7. (“For the reasons  
18 argued by Petitioner, the Court finds that Petitioner’s detention for over 11 months  
19 without a bond hearing under the circumstances of this case—and absent meaningful  
20 rebuttal by Respondents of Petitioner’s analysis—has become unreasonable and violates  
21 due process.”).

1 The Court directed Respondents to arrange an individualized bond hearing for  
2 Petitioner before an immigration court within fourteen (14) days “at which Respondents  
3 must justify her continued detention by a showing of clear and convincing evidence that  
4 Petitioner would likely flee or pose a danger to the community if released.” *Id.* at 13:7-8.

5 Dated: November 12, 2025, Respectfully submitted,

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7 By: /s/ Bashir Ghazialam  
8 Bashir Ghazialam  
9 Attorney for Petitioner  
10 Email: bg@lobg.net  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 12, 2025, I caused the foregoing document to be electronically filed with the Clerk of the Court for the United States District Court for the Southern District of California by using the appellate CM/ECF system.

Participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

Executed on: November 12, 2025

/s/ Bashir Ghazialam  
Bashir Ghazialam

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**EXHIBIT “A”**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

HAMIDEH SADEQI,  
  
Petitioner,  
  
v.  
  
CHRISTOPHER LAROSE, Senior Warden,  
Otay Mesa Detention Center, et al.,  
  
Respondents.

Case No.: 25-cv-2587-RSH-BJW

**ORDER GRANTING PETITION  
FOR WRIT OF HABEAS CORPUS**

Petitioner Hamideh Sadeqi seeks habeas relief from this Court pursuant to 28 U.S.C. § 2241. ECF No. 1. Petitioner, a citizen of Afghanistan, is detained by U.S. Customs and Immigration Enforcement (“ICE”) at the Otay Mesa Detention Center in San Diego, California. *Id.* ¶ 3. The merits of the Petition have been fully briefed. As set forth below, the Court grants the Petition.

**I. BACKGROUND**

On October 1, 2025, Petitioner initiated this action by filing a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the lawfulness of her detention. ECF No. 1. Petitioner names as respondents the warden of the detention center, the Acting

1 Director of ICE’s San Diego Field Office for Enforcement and Removal Operations, the  
2 Acting Director of ICE, the Secretary of the U.S. Department of Homeland Security  
3 (“DHS”), and the U.S. Attorney General.<sup>1</sup>

4 Petitioner alleges that on or about December 1, 2024, she applied for admission to  
5 the United States from Mexico at the Port of Entry in San Ysidro, California. *Id.* ¶ 14. At  
6 that time, she was taken into immigration custody. *Id.*

7 On December 12, 2024, an asylum officer interviewed Petitioner and determined  
8 that she had a credible fear of persecution if returned to Afghanistan. *Id.* ¶ 15.

9 On December 21, 2024, DHS issued to Petitioner a Notice to Appear, charging her  
10 with being removable as an arriving alien. *Id.* ¶ 16.

11 On January 28, 2025, Petitioner filed an application for asylum. *Id.* ¶ 19. Since that  
12 time, DHS has twice transferred her away from, and then back to, the Otay Mesa Detention  
13 Center; her individual merits hearing has been postponed more than once; and she states  
14 that her merits hearing was reassigned a different immigration judge. *Id.* ¶¶ 20–23. Her  
15 merits hearing ultimately began on August 26, 2025, but due to time restraints was not  
16 completed on that day, and has been continued to December 2, 2025. *Id.* ¶ 23.

17 Petitioner alleges that she is not removable in the reasonably foreseeable future, and  
18 on that basis contends that her continued detention without any consideration of bond  
19 violates her right to due process. *Id.* ¶ 34.

20 Respondents have filed a return. ECF No. 10. Petitioner has filed a traverse. ECF  
21 No. 11.

## 22 **II. LEGAL STANDARD**

23 Title 28 of the U.S. Code, Section 2241, provides that “[w]rits of habeas corpus may  
24 be granted by the Supreme Court, any justice thereof, the district courts and any circuit  
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27 <sup>1</sup> Although the Acting Director for the Executive Office for Immigration Review  
28 appears in the caption of the petition, she is not subsequently identified as a respondent in  
this case.

1 judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). A detainee bears the  
2 burden of demonstrating that “[sh]e is in custody in violation of the Constitution or laws  
3 or treaties of the United States.” 28 U.S.C. § 2241(c)(3).

### 4 **III. ANALYSIS**

5 The Parties do not dispute that Petitioner is detained pursuant 8 U.S.C. §  
6 1225(b)(1)(B)(ii), which provides that noncitizens found to have a credible fear of  
7 persecution are subject to mandatory detention pending consideration of an asylum  
8 application. *See* 8 U.S.C. § 1225(b)(1)(B)(ii) (“If the officer determines at the time of the  
9 interview that an alien has a credible fear of persecution ... the alien shall be detained for  
10 further consideration of the application for asylum.”). The sole issue presented is whether,  
11 in the circumstances of this case and at this point in time, applying this mandatory detention  
12 regime violates Petitioner’s due process rights.

#### 13 **A. Whether Petitioner Has a Due Process Claim**

14 Respondents argue that under the Supreme Court’s decision in *Department of*  
15 *Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), as an “arriving alien,”  
16 Petitioner has no due process rights beyond those that Congress has provided. ECF No. 10  
17 at 10–13. In *Thuraissigiam*, the Supreme Court rejected a habeas petitioner’s argument that  
18 the due process clause conferred rights to challenge his expedited removal beyond those  
19 established by Congress, stating that “an alien at the threshold of initial entry cannot claim  
20 any greater rights under the Due Process Clause.” 591 U.S. at 107. The petitioner in that  
21 case had “attempted to enter the country illegally and was apprehended just 25 yards from  
22 the border.” *Id.* The Supreme Court determined that the “political department of the  
23 government” had plenary authority to admit or exclude aliens seeking initial entry, and thus  
24 “an alien in respondent’s position has only those rights regarding admission that Congress  
25 has provided by statute.” *Id.* at 139–40. Respondents argue that because Petitioner is  
26 likewise an “arriving alien,” due process affords her nothing beyond the mandatory  
27 detention scheme established by Section 1225(b)(1). ECF No. 10 at 10–13.

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1 Following the Supreme Court’s decision in *Thuraissigiam*, some district courts have  
2 adopted Respondents’ reasoning to dismiss or deny habeas petitions in the context of  
3 arriving aliens subject to mandatory detention under Section 1225(b)(1). *See Petgrave v.*  
4 *Aleman*, 529 F. Supp. 3d 665, 669 (S.D. Tex. 2021) (“As far as Petitioner is concerned,  
5 whatever procedure Congress has authorized is sufficient due process.”); *Gonzales Garcia*  
6 *v. Rosen*, 513 F. Supp. 3d 329, 336 (W.D.N.Y. 2021) (“Petitioner is on the threshold of  
7 initial entry into the United States and [] he accordingly is not entitled to procedural  
8 protections beyond those provided by statute.”).

9 Most courts have ruled otherwise. *See Abdul-Samed v. Warden of Golden State*  
10 *Annex Det. Facility*, No. 25-cv-98-SAB-HC, 2025 WL 2099343, at \*6 (E.D. Cal. July 25,  
11 2025) (“Although the Ninth Circuit has yet to take a position on whether due process  
12 requires a bond hearing for noncitizens detained under 8 U.S.C. § 1225(b) .... ‘essentially  
13 all district courts that have considered the issue agree that prolonged mandatory detention  
14 pending removal proceedings, without a bond hearing, will—at some point—violate the  
15 right to due process.’”) (citing *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 2019 WL  
16 5968089, at \*6 (W.D. Wash. May 23, 2019)); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772  
17 (S.D. Cal. 2020) (“[T]he Court joins the majority of courts across the country in concluding  
18 that an unreasonably prolonged detention under 8 U.S.C. § 1225(b) without an  
19 individualized bond hearing violates due process.”). This Court agrees with the majority  
20 position that a petitioner detained under Section 1225(b)(1) may assert a due process  
21 challenge to prolonged mandatory detention without a bond hearing. This Court likewise  
22 agrees with those district courts that interpret *Thuraissigiam* as circumscribing an arriving  
23 alien’s due process rights to *admission*, rather than limiting that person’s ability to  
24 challenge *detention*. *See A.L. v. Oddo*, 761 F. Supp. 3d 822, 825 (W.D. Pa. 2025)  
25 (“Nowhere in [*Thuraissigiam*] did the Supreme Court suggest that arriving aliens being  
26 held under § 1225(b) may be held indefinitely and unreasonably with no due process  
27 implications, nor that such aliens have no due process rights whatsoever.”); *Hernandez v.*  
28 *Wofford*, No. 25-cv-986-KES-CDB (HC), 2025 WL 2420390, at \*3 (E.D. Cal. Aug. 21,

1 2025) (“Although the Supreme Court has described Congress’s power over the ‘policies  
2 and rules for exclusion of aliens’ as ‘plenary,’ and held that this court must generally ‘defer  
3 to Executive and Legislative Branch decisionmaking in that area,’ it is well-established  
4 that the Due Process Clause stands as a significant constraint on the manner in which the  
5 political branches may exercise their plenary authority’—through detention or otherwise.”)  
6 (citations omitted); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1171–72 (W.D. Wash. 2023)  
7 (“The holding in *Thuraissigiam* does not foreclose Plaintiffs’ due process claims which  
8 seek to vindicate a right to a bond hearing with certain procedural protections.”).<sup>2</sup>

9 **B. Whether Petitioner’s Detention is Prolonged in Violation of Due Process**

10 Petitioner offers, as a framework for analyzing a due process challenge to prolonged  
11 detention, a six-factor balancing test used by some district courts, that considers: (1) the  
12 total length of detention to date; (2) the likely duration of future detention; (3) conditions  
13 of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in  
14 the removal proceedings caused by the government; and (6) the likelihood that the removal  
15 proceedings will result in a final order of removal. ECF No. 1 ¶ 35; see *Banda v.*  
16 *McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019) (citing *Jamal A. v. Whitaker*,  
17 358 F. Supp. 3d 853, 858–59 (D. Minn. 2019)); accord *Kydyrali*, 499 F. Supp. 3d at 773–  
18 74. Applying these factors, Petitioner argues that she has been detained since December 1,  
19 2024 (a period now exceeding 11 months); that the specific delays in her asylum  
20 proceedings have been due entirely to Respondents, and not attributable to her; that her  
21 continued detention is harmful to her psychological health; and that, whatever the outcome  
22 of her next merits hearing, she cannot be removed from the United States until her asylum  
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27 <sup>2</sup> This Court ruled the same way on the same question, prior to the filing of the instant  
28 case. See *Gao v. LaRose*, No. 25-cv-2084-RSH-SBC, 2025 WL 2770633, at \*3 (S.D. Cal.  
Sept. 26, 2025).

1 application is adjudicated and an order of removal becomes final.<sup>3</sup> ECF No. 1 at 10–13.  
2 Petitioner urges that these factors, considered together, indicate that her detention without  
3 a bond hearing has become unduly prolonged.

4 Respondents argue that certain of Petitioner’s assertions—including that any order  
5 of removal against her will not become final in the reasonably foreseeable future, and that  
6 her continued detention puts her mental health at risk—are conclusory and unsupported.  
7 ECF No. 10 at 16–17. Respondents also argue that Petitioner has failed to cite a case  
8 establishing that her length of detention is unduly prolonged; that is, the cases Petitioner  
9 cites have involved periods of detention longer than hers. *Id.* at 18–19. However,  
10 Respondents do not appear to offer their own analysis of the six *Banda* factors (aside from  
11 arguing that due process does not confer any rights beyond the statutory detention scheme)  
12 or offer any alternative framework for determining whether detention is prolonged.  
13 Although Respondents challenge some of Petitioner’s assertions as conclusory, they do not  
14 contest her factual claim that all the delays and postponements in her case have been  
15 attributable to Respondents and not to her.

16 The Court agrees with Respondents that the length of Petitioner’s detention to date—  
17 almost 12 months—does not by itself, without more, establish prolonged detention in  
18 violation of due process. But neither does that length of detention serve as a safe harbor or  
19 insulate Petitioner’s case from constitutional review. Although Petitioner did not cite  
20 examples of district courts ordering a bond hearing where a petitioner was subject to  
21 mandatory detention for a comparable length of time, such examples abound, including  
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24 <sup>3</sup> Petitioner states that that her conditions of confinement “do not raise constitutional  
25 concerns.” ECF No. 1 ¶ 40. Although Petitioner is not using her habeas petition as a means  
26 to challenge those conditions, for purposes of analyzing the *Banda* factors, courts in this  
27 district have found that conditions at the Otay Mesa Detention Center are  
28 “indistinguishable from penal confinement,” and that this factor weighs in favor of  
petitioners’ due process arguments of prolonged detention. *See Kydyrali*, 499 F. Supp. 3d  
at 773; *Hoyos Amado v. U.S. Dep’t of Justice*, No. 25-cv-2687-LL-DDL, 2025 WL  
3079052, at \*6 (S.D. Cal. Nov. 4, 2025).

1 from this Court. *See, e.g., Hoyos Amado*, 2025 WL 3079052, at \*5 (“Courts have found  
2 detention over seven months without a bond hearing weighs toward a finding that it is  
3 unreasonable.”) (collecting cases); *Tanoyan v. Andrews*, No. 1:25-CV-00815-SKO (HC),  
4 2025 WL 3013684, at \*4 (E.D. Cal. Oct. 28, 2025) (“Petitioner has been detained  
5 approximately 11 months. This period ... qualifies as prolonged.”); *Gao*, 2025 WL  
6 2770633, at \*5 (“The Court finds that Petitioner’s detention for over 10 months without a  
7 bond hearing, in the context of the specific circumstances described above, has become  
8 unreasonable and violates due process.”); *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D.  
9 Cal. 2022) (“Petitioner has been in immigration detention ... approximately one year.  
10 District court have found shorter lengths of detention ... without a bond hearing to be  
11 unreasonable.”) (collecting cases).

12 For the reasons argued by Petitioner, the Court finds that Petitioner’s detention for  
13 over 11 months without a bond hearing under the circumstances of this case—and absent  
14 meaningful rebuttal by Respondents of Petitioner’s analysis—has become unreasonable  
15 and violates due process.

16 Petitioner is entitled to a prompt and individualized bond hearing, at which  
17 Respondents must justify her continued detention by a showing of clear and convincing  
18 evidence that Petitioner would likely flee or pose a danger to the community if released.  
19 *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), *abrogated on other grounds by*  
20 *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (explaining that “the substantial liberty interest  
21 at stake” warranted placing the burden on the government to “prove by clear and  
22 convincing evidence that an alien is a flight risk or a danger to the community to justify  
23 denial of bond”); *see also Martinez v. Clark*, 124 F.4th 775, 785–86 (9th Cir. 2024) (stating  
24 that “the BIA properly noted that the government bore the burden to establish by clear and  
25 convincing evidence that Martinez is a danger to the community” with respect to a bond  
26 hearing for a noncitizen detained under § 1226(c)).

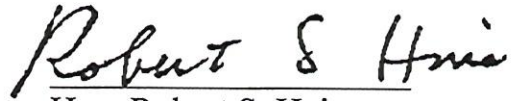
27 **IV. CONCLUSION**

28 For the foregoing reasons, the Petition is **GRANTED**. Respondents are directed to

1 arrange an individualized bond hearing for Petitioner before an immigration court within  
2 *fourteen (14) days of this order* as described above. All other relief sought in the Petition,  
3 including an order directing Petitioner’s immediate release, is denied.

4 **IT IS SO ORDERED.**

5 Dated: November 12, 2025

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7 Hon. Robert S. Huie  
8 United States District Judge  
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