



FILED

FEB 02 2026

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

IN THE MATTER OF
PETITIONER

BENIK MKRTCHYAN
A- 
PRO SE

v

RESPONDENT(S)
WARDEN OF THE CALIFORNIA
CITY DETENTION CENTER
ET AL

DETAINED
CASE NO:1:25-cv-01666-SKO HC

Respected Clerk Of The Court and Honourable Judge i hereby file Ex Parte Motion For Temporary Restraining Order against the respondents Warden Of California City Detention Center ET AL. In filing this motion i seek adequate remedy for the continued irreparable harms that i face whilst detained.

- I seek my immediate release from California City Detention Center
- Or Alternatively I seek a Custody Redetermination Hearing before a neutral decision in which the Government bare the burden of proving by clear and convincing evidence that i am a danger to the community or a flight risk.

EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER

Honourable
United States District Judge

Summary Statement

I BENIK MKRTCHYAN have been detained on orders of DHS since 10/28/2024 having been apprehended at the border. I am currently detained under S1225(b)(2) of the U.S.C.

I am currently detained at California City Detention Center, located at 22488 Virginia Blvd, California City, California, 93505.

S1225(b)(2) mandates detention of all arriving aliens into the United States, however my detention now exceeds beyond a reasonable period of confinement. I have been detained for **14 MONTHS** and assert claim to the constitution protections extended to me under *Zadvydas* and *Rodriguez* where 6 months serves as a bright white line. Additionally in *Aleman*, the court found not to distinguish between post and pre removal noncitizens finding that both classes had liberty interests in remaining free from detention.

My continued prolonged detention in which i am unconstitutionally detained against the *Due Process Clause* of the United States 5th Amendment, deprives me of a judicaial review of my detention before a neutrul decision maker.

I am currently in ongoing immigration proceedings and no final order has been entered. My court proceedings have been changed on multiple occasions at the accord of DHS, through no fault of my own and continously prolong my detention. I have no criminal record, pose no risk to the community and have sought relief through Asylum and Withholding.

The DHS and Immigration Judges have denied me right to a bond hearing on grounds of 'No Jurasdiction' based on the mandatory detention of S1225(b)(2). However given that the period of confinement now exceeds beyond a reasonable period, the likelihood that my case will be delayed again given that the DHS is now continously resheduling court dates due to the high influx on immigration detainees, and that detention at this moment of time remains indefinate, i assert Due Process Claims and my continued detention without a bond hearing before a neutral decision maker violates the Due Process Clause of the 5th Amendment. I now seek remedy for this matter in the District Court.


SIGN


DATE

Likelihood that i will succeed on Merits

The Due Process Clause Of The Fifth Amendment provides that "No Person shall be ... deprived of life, liberty, or property without due process of law" *U.S Const. amend. V*. "Freedom from imprisonment - from government custody, detention or other forms of physical restraint - lies at the heart of liberty that [the Due Process] Clause protects" *Zadvydas 533 U.S at 690*

Quoting Wong Wing v United States 163 U.S. 228, 238 16 S. Ct 977 41 l. Ed 140 (1896)

"All persons within the territory of the United States are entitled to the protection" of the constitution. All persons, aliens and citizens alike, are protected by the due process clause; *Jenning 138 S. Ct at 862* (Breyer J, dissenting (No one can claim nor since the time of slavery has anyone to my knowledge successfully claimed that persons held within the United States are totally without constitutional protections.)

Given that courts not only in this district but Nationwide that have considered this issue, agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, will at some point violate the right to due process. *see Martinez v Clark No: C18-1669-RAJ-MAT (2019)*, Similarly courts in this district have found that noncitizens detained under S1225(b)(2) may assert a constitutional right to due process. *see Maksim v Warden Golden State Annex, No 1:25-cv-00955-SKO (HC), and Abdul-Samad v Warden Golden State Annex No 1:25-cv-00098-SAB-HC, Margaryan v Warden of California City Detention, No. 1:25-cv-01582- EFB, 2026.*

"We have grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so. Arbitrary civil detention is not a feature of our American government. Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno 481 U.S 739, 755. 107 S.Ct 2095, 95 L.Ed.2d 697 (1987)*

"It is well established that the fifth amendment entitles aliens to due process of the law in deportation proceedings" *DEMORE V KIM 583 U.S. 510, 523, 123 S CT. 1708, 155, L. Ed. 2d 724 (2003)*

"The Court found that whilst S1225(b)(2) mandates detention, prolonged detention without review violates Due Process." *AMADO V UNITED STATES DOJ 2025*

Whilst S1225(b)(2) congressionally mandates detention throughout removal proceedings the period for this detention is not specified and congress did not intend that detention be indefinite and outside of reason. When detention becomes prolonged and unreasonable the Due Process Clause must be extended to noncitizens. In relative cases throughout history and the historic practises of congress, 6 months has always been refered to as the 'bright white line' see *Rodriguez* and the point at which immigration detention becomes prolonged. Due Process has historically been extened to noncitizens at this point.

Given the period of confinement that i have already been detained and that the government has been unable to conclude removal proceedings it is unlikely that it will be able to do so in the near future. Even so if the government is able to conclude removal proceedings in favour of removal, administrative remedies apply under which any order would not become final pending appeal before the BIA.

Taking the recent rulings of other courts as well as the historic rulings throughout higher courts, of noncitizens asserting claim of the Due Process Clause of the 5th Amendment, the judges have found in favour of the petitioners when detention becomes prolonged and indefinite. The likelihood of success in this matter is extremely high given prior rulings have found in favour of the petitioners.

Irreparable Harm

"It is well established that the deprivation of the constitutional rights 'unquestionably constitutes irreparable injury' *Melendres V. Arpaio* 695 F.3d 990 'irreparable harms imposed on anyone subject to immigration detention including 'the economic burden imposed on detainees and their families as a result of detention' As per harms imposed on anyone subject to immigration detention, the psychological, physical and emotional well being constitutes harms.

I am a non punitive detainee, detained pending civil immigration proceedings in the California City Detention Center, which until recently was a State prison housing criminal inmates. This detention center is run under the same regiments that it previously did and houses non punitive detainees in the same conditions and hostility as criminal inmates.

The facilities strict regiments mean i am at loss of liberty in accessing phone calls outside of the facilities one hour counts 4 times a day and 7 hour lockdown between 22:00 and 05:00 during which time i am kept locked within my dorm. The facility conducts counts at 07:00, 11:00, 15:00, 19:00 lasting an hour an upwards during which time i am also locked in my dorm without access to a phone. Throughout the day i am locked in my dorm for 11 hours with no access to a phone. The mental strain that this imposes is detrimental to my mental health. Causing me to become caustrophobic over time.

Furthermore the facility does not uphold a regular visitation schedule instead elects for a appointment only visitation policy, friends and family have called on numerous time to attempt to schedule and have essentially been given the run around with no one person having the correct knowledge. Additionally they struggle to reach anyone at the facility as the phone lines are unattended throughout most parts.

The facilitys remote location and distance away from civilization makes it unsafe for friends to travel to. I am restricted to one hour of recreation time outside, unable to maintain a healthy diet, unable to maintain fitness, unable to maintain my basic hygiene, restricted to shaving twice a week in the presence of my cell mate. I am complete loss of dignity having to shave my private parts in the presence of another mail locked in a cell.

The financial strain that dentention impose also extend to my friends and family who has financially supported me whilst detained through phone calls and commissary, the financial burden upon them also construtes harm.

My due process right is futher violated as i am unable to adequatly represent myself in legal proceedings haveing to share one computer with 80 detainees and one printer throughout the whole facility. This facility 'California City Detention Center' does not have the structure, polices, procedures and due process rights to detain immigration detainees. I am unable to print legal mail without waiting days for a printer. My simple request for an envelope is ignored for days delaying my matters before the District and Immigration courts. Each day that i am detained within the facility is a further violation of my due process right and liberty.

The medical practise provided within this facility are below reasonable, the negligence to human life and health is immoral, medical care is not adminstered after putting in a sick call for weeks due to the 'stretched' resources of the medical staff. The clear showing of lack of respect amongst the staff and detainess is evident. We are treated as punative detatines, we are deprived of sleep through intentional door slamming by officers whilst sleepings. On one occassion a detainee whos finger was sliced off by an officer slamming the door shut on his finger during a routine count is a clear and evident showing of the neglicance and lack of mutual respect within the facility.

The mailing practise within the facility further violates the Due Process Clause, when recieving mail, incoming mail is often held within the facility for days and on some occasions weeks due to the negligence of staff before it reaches detainees. Inmates have often recieved mail that arrived within the facility weeks prior to being handed to them containing court deadlines which they were unable to meet.

Since from February 2025, I have guts problem, which medicals still did not treat or unable to treat. Every time I am bleeding when going to restroom. I need special diet I cant eat spicy, red, etc. I cannot sleep and medical stuff refuse to provide sleep pills, directing me to buy from commissary shop. My guts pain dont let me sleep at night. I can not drink water it is unfiltered, so I need to buy it again from commissary.

Interest to public harms

When nomovant is the government the last two winter factors 'merge' *Baird v Bonta 81 F.4th 1036,1040 (9th Cir. 2023)*

"It is always in the public interest to prevent the violation of a party's constitutional right" *Preminger v Principi 422 F.3d 815,826 (9th Cir 2005)* "Public interests concerns are implicated when a constitutional right has been violated because all citizens have a stake in upholding the constitution. The public has a strong interest in upholding procedural protections against unlawful detention and the ninth circuit recognized that the costs to the public of immigration detentions are staggering" *Jorge M.F v. Wilkinson No 21-cv-01434-JST 2021 U.S.*

Upholding the constitution and the congressional intent of law and order is always in the interest of the public, All persons, aliens and citizens alike, are protected by the due process clause; *Jenning 138 S. Ct at 862* to allow the DHS to break the constitutional protections that congress provided is a violation upon all citizens and noncitizen alike.

Freedom from imprisonment from government custody detention or other forms of physical restraint is at the heart of the liberty that the due process clause protects. (*Zadvydas V David 533 U.S at 690*)

The governments sole interest in my detention lies in assuring attendance in removal proceedings and 'should' an order of removal be imposed it's ability to carry out such order. However the likelihood that any such order will be imposed in the near future given that court proceedings are being continuously delayed, are extremely unlikely and speculative. The cost towards the taxpayer for immigration detention is staggering especially at a time when the public faces extreme economical hardship, the government is able to retain the same security as confinement in a GPS locator at a much lower cost to the United States tax payer.

The government has already detained me for **14 MONTHS**. The governments interest in continued detention and the harms that it may face are minimal in comparison to the harms and interest to the public and the upholding of the due process clause.

Conclusion

In line with historical rulings in the matter of *Demore, Zydvas, Rodriguez, Aleman*, whilst these cases may differ in the fundamental matters, all these cases ruled that 6 months served as a white line period and detention beyond this period without definitive time lines were a violation of due process.

The period of time that i have been confined construtes for irreparable harm, the Due Process Clause of the 5th Amendments extents to citizens and noncitizens alike and through historic practices and recent case rulings through clear and evident showing i assert claim of the Due Process Clause. The DHS refuses to hold a judicial review of my detention or to provide a bond hearing before a neutral decision maker in which the Immigration Judge can grant bond. This is a clear violation of the Due Process Clause of the constitution and i seek remedy from the District Court for this matter.

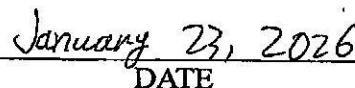
I seek an Ex-Parte TRO granting my immediate release from custody pending a final decision on my immigration matters, or alternatively a bond hearing before a neutral decision maker in which the immigration judge has jurasdiction to grant bond and in which the government must show through clear and convincing evidence that i pose a danger to the safety of the public or a flight risk.

I plead before the Respectable Judge in this matter for a 'speedy' order into this matter to not further prolong the detention that i continue to suffer from.

Kind Regards

BENIK MKRTCHYAN


SIGN


DATE