

1 JASON RONIS (229628)  
2 Francisco J. Aldana (216388)  
3 LAW OFFICES OF JASON A. RONIS  
4 105 F Street, Third Floor  
5 San Diego, California 92101  
6 Phone: 619-813-8058  
7 JasonRonis@gmail.com

8 Attorney for Petitioner  
9 HELMER CASTRO CABALLERO

10 UNITED STATES DISTRICT COURT  
11 SOUTHERN DISTRICT OF CALIFORNIA

12 HELMER CASTRO CABALLERO,  
13  
14 Petitioner,

15 versus

16 KRISTI NOEM, Secretary of Homeland  
17 Security, PAM BONDI, Attorney General,  
18 Todd M. Lyons, Director of Immigration and  
19 Customs Enforcement, Patrick Divver, San  
20 Diego ICE Field Office Director; Christopher  
21 J. LaRose, Director - Otay Mesa Detention  
22 Center.

23 Respondents.

Case Number: 25-cv-3407-BJC-BJW

PETITIONER'S TRAVERSE TO  
RESPONDENTS' RETURN IN  
OPPOSITION TO PETITION FOR  
WRIT OF HABEAS CORPUS

24 I. INTRODUCTION

25 Petitioner Helmer Castro Caballero submits this Traverse in response to Respondents'  
26 Return filed on December 19, 2025. Respondents' arguments fail because they ignore the  
27 fundamental constitutional principles established in *Rodriguez v. Robbins*, 804 F.3d 1060 (9th  
28 Cir. 2015) and the reality that Mr. Castro Caballero has been detained for over 15 months without  
an individualized bond hearing. This prolonged detention, without any determination of  
dangerousness or flight risk, violates the Fifth Amendment's Due Process Clause.

Respondents rely heavily on jurisdictional arguments under 8 U.S.C. section 1252 and  
claim that Petitioner's detention is mandatory under 8 U.S.C. section 1225(b)(1)(B)(ii). However,

1 both arguments are unavailing. First, this Court retains habeas jurisdiction to review constitutional  
2 challenges to prolonged detention, as the Ninth Circuit has repeatedly held. Second, even if  
3 detention under section 1225(b)(1)(B)(ii) is initially mandatory, the Due Process Clause requires  
4 periodic bond hearings when detention becomes prolonged – particularly after 14 months.

5 The federal court in the central district of California ordered the government to stop  
6 claiming they do not have jurisdiction to hear bond requests or mandatory detention. (See *In*  
7 *Maldonado Bautista v. Benov*, No. 2:24-cv-11026-JLS-PVC (C.D. Cal. Dec. 18, 2024),

## 8 **II. ARGUMENT**

### 9 **A. This Court Has Jurisdiction to Review Petitioner's Constitutional Claims**

10 Respondents' jurisdictional arguments under 8 U.S.C. section 1252(g) and section  
11 1252(b)(9) are without merit. While these provisions channel review of certain immigration  
12 decisions to courts of appeals, they do not strip this Court of habeas jurisdiction over constitutional  
13 challenges to prolonged detention.

#### 14 **1. The Habeas Corpus Suspension Clause Preserves This Court's Jurisdiction**

15 The Suspension Clause of the Constitution provides that the Privilege of the Writ of  
16 Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the Public  
17 Safety may require it. U.S. Const. art. I, section 9, cl. 2. This constitutional provision protects the  
18 right to seek habeas relief in federal district court.

19 In *Demore v. Kim*, 538 U.S. 510, 517 (2003), the Supreme Court held that an alien may  
20 challenge detention under 8 U.S.C. section 1226(a) through a habeas corpus proceeding under 28  
21 U.S.C. section 2241. The Ninth Circuit in *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015),  
22 expressly recognized that aliens subject to mandatory detention have a constitutional right to  
23 periodic bond hearings when detention becomes prolonged.

24 Respondents' reliance on 8 U.S.C. section 1252(g) is misplaced. That provision bars  
25 review of the decision or action by the Attorney General to commence proceedings, adjudicate  
26 cases, or execute removal orders. But Petitioner is not challenging the decision to commence  
27 proceedings or adjudicate his case. Rather, he challenges the duration of his detention without a  
28 bond hearing – a claim that falls squarely within this Court's habeas jurisdiction.

1 As the Ninth Circuit explained in *Singh v. Gonzales*, 499 F.3d 969, 978 (9th Cir. 2007),  
2 the REAL ID Act's limitations on habeas relief would not preclude habeas review over challenges  
3 to detention that are independent of challenges to removal orders. The Court's inquiry here  
4 concerns only the constitutionality of Petitioner's continued detention, not the validity of his  
5 removal proceedings.

6 **2. Section 1252(a)(2)(A) Does Not Bar Constitutional Challenges to Prolonged**  
7 **Detention**

8 Respondents argue that 8 U.S.C. section 1252(a)(2)(A) bars this Court from reviewing  
9 Petitioner's detention. This argument fails for two reasons.

10 First, Petitioner is not challenging the implementation or operation of an order of removal  
11 or the application of section 1225(b)(1) to individual aliens. 8 U.S.C. section 1252(a)(2)(A)(i),  
12 (iii). Instead, Petitioner challenges the constitutionality of his prolonged detention without a bond  
13 hearing. This is a constitutional challenge to detention conditions, not a challenge to removal  
14 proceedings or their procedures.

15 Second, even if section 1252(a)(2)(A) applied, it cannot constitutionally bar habeas review  
16 of due process challenges to prolonged detention. Such an interpretation would violate the  
17 Suspension Clause. As the Supreme Court held in *INS v. St. Cyr*, 533 U.S. 289 (2001), Congress  
18 cannot eliminate habeas jurisdiction over core habeas claims without raising serious constitutional  
19 questions. Petitioner's challenge to 14 months of detention without a hearing is precisely such a  
20 core claim.

21 **3. Recent District Court Authority Confirms Jurisdiction**

22 Multiple district courts within the Ninth Circuit have exercised habeas jurisdiction over  
23 constitutional challenges to prolonged detention under section 1225(b)(1). See, e.g., *Mendoza-*  
24 *Linares v. Garland*, No. 21-CV-1169 BEN (AHG), 2024 WL 3316306 (S.D. Cal. June 10, 2024)  
25 (exercising jurisdiction to address constitutional challenge to detention under section 1225(b)(1));  
26 *Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151 JLS (KSC), 2023 WL 3103811 (S.D. Cal. Apr.  
27 25, 2023) (same).

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1           These cases confirm that while section 1252 may channel certain review to the courts of  
2 appeals, it does not eliminate this Court's habeas jurisdiction over constitutional challenges to  
3 prolonged detention. This Court should follow the same approach.

4           **B. Petitioner's Prolonged Detention Without a Bond Hearing Violates Due Process**

5           Even if Congress can mandate detention without bond hearings for some period of time,  
6 the Due Process Clause requires individualized review when detention becomes prolonged.  
7 Petitioner has been detained for over 14 months, far beyond any reasonable period of mandatory  
8 detention, and has never received a bond hearing to assess whether his continued detention is  
9 justified.

10           **1. Rodriguez v. Robbins Establishes the Right to Bond Hearings After**  
11 **Prolonged Detention**

12           In *Rodriguez v. Robbins*, 804 F.3d 1060, 1089 (9th Cir. 2015), the Ninth Circuit held that  
13 prolonged immigration detention without individualized review violates due process. The court  
14 explained that the government's interest in detaining aliens diminishes, and the risk of erroneous  
15 deprivation increases, as a noncitizen continues to be deprived of his liberty without any  
16 opportunity to test the government's asserted justification for that detention. *Id.* at 1086.

17           Rodriguez required that aliens detained under 8 U.S.C. section 1226 receive bond hearings  
18 after six months of detention, with the government bearing the burden of proving by clear and  
19 convincing evidence that the alien poses a flight risk or danger to the community. *Id.* at 1089.  
20 While Rodriguez involved section 1226, its constitutional reasoning applies equally to section  
21 1225(b)(1)(B)(ii).

22           The Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), did not  
23 overrule Rodriguez's constitutional holding. Jennings held only that the detention statutes do not,  
24 by their terms, require periodic bond hearings – not that the Constitution permits indefinite  
25 detention without such hearings. As Jennings itself noted, the Court expressed no view on  
26 whether, as respondents also contend, the Due Process Clause requires the result that the Court of  
27 Appeals decreed. *Id.* at 305 n.20.

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1 Thus, Rodriguez's constitutional rule remains good law in the Ninth Circuit: prolonged  
2 detention without individualized review violates due process.

3 **2. Respondents' Reliance on Thuraissigiam Is Misplaced**

4 Respondents cite Department of Homeland Security v. Thuraissigiam, 591 U.S. 103  
5 (2020), for the proposition that arriving aliens have no due process rights other than those afforded  
6 by statute. Return at 11. This argument misreads Thuraissigiam.

7 Thuraissigiam addressed whether an alien in expedited removal proceedings has a  
8 statutory right to full merits review of asylum claims. The Court held that Congress can limit the  
9 scope of review of substantive asylum decisions. Id. at 138-40. But Thuraissigiam did not address  
10 the separate question presented here: whether the Due Process Clause requires individualized  
11 hearings after prolonged detention.

12 The Court in Thuraissigiam explicitly distinguished detention cases, noting that it was not  
13 addressing other constitutional protections, such as due process requirements regarding detention.  
14 Id. at 125 n.16. Thus, Thuraissigiam does not govern this case.

15 Moreover, even under the entry fiction doctrine, which treats arriving aliens as if they have  
16 not yet entered the United States, prolonged physical detention on U.S. soil triggers due process  
17 protections. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (holding that due process applies  
18 to aliens detained within the United States, even if they have not been formally admitted).  
19 Petitioner has been physically present in the United States for over 14 months. The legal fiction  
20 of non-entry cannot override the constitutional reality of his prolonged imprisonment.

21 **3. Fourteen Months of Detention Is Constitutionally Excessive**

22 Petitioner has been detained for over 14 months without any individualized determination  
23 that he poses a flight risk or danger to the community. This detention period far exceeds the  
24 threshold at which courts have found constitutional violations.

25 Respondents themselves acknowledge that as detention continues past a year, courts  
26 become extremely wary of permitting continued custody absent a bond hearing. Return at 12  
27 (citing *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL 3028093, at \*4 (S.D. Cal. Apr.

28

1 20, 2023)). Yet Respondents offer no justification for why Petitioner should remain detained  
2 without a hearing beyond this one-year mark.

3 Courts in this District have repeatedly held that detention exceeding one year raises serious  
4 due process concerns. See *Sanchez-Rivera v. Matuszewski*, No. 22-cv-1357-MMA-JLB, 2023 WL  
5 139801 (S.D. Cal. Jan. 9, 2023) (ordering bond hearing after three years of detention); *Durand v.*  
6 *Allen*, No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607 (S.D. Cal. Feb. 21, 2024) (ordering bond  
7 hearing after over two-and-a-half years); *Yagao v. Figueroa*, No. 17-cv-2224-AJB-MDD, 2019  
8 WL 1429582 (S.D. Cal. Mar. 29, 2019) (ordering bond hearing after two years).

9 Petitioner's 14-month detention places him well within the zone where courts have found  
10 constitutional violations. This Court should order a bond hearing consistent with Rodriguez.

#### 11 **4. Recent Authority Supports Petitioner's Position**

12 Recent decisions from the Central District of California confirm that even aliens detained  
13 under section 1225(b)(1) are entitled to bond hearings after prolonged detention. In *Maldonado*  
14 *Bautista v. Benov*, No. 2:24-cv-11026-JLS-PVC (C.D. Cal. Dec. 18, 2024), the court ordered the  
15 government to provide a bond hearing to an alien detained under section 1225(b)(1)(B)(ii) after  
16 approximately 14 months of detention.

17 The Maldonado Bautista court rejected the government's arguments that section  
18 1225(b)(1) detention is categorically exempt from constitutional scrutiny. The court held that  
19 while Congress may mandate initial detention, the Due Process Clause requires individualized  
20 review once detention becomes prolonged. The court further noted that the constitutional concerns  
21 identified in Rodriguez apply with equal force to section 1225(b)(1) detention.

22 This Court should follow Maldonado Bautista and the weight of authority within this  
23 Circuit, which recognizes that prolonged detention without individualized review -- regardless of  
24 the statutory provision authorizing detention -- violates due process.

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1           **C. Petitioner Presents Neither a Flight Risk Nor a Danger to the Community**

2           The facts of this case make clear that continued detention is unjustified. Petitioner: (1) has  
3 no criminal record; (2) has been granted deferral of removal by an Immigration Judge, finding  
4 that he would likely be tortured if returned to Venezuela; (3) has relatives in Indiana who have  
5 agreed to sponsor him and provide housing; (4) has family members willing to support his release;  
6 and (5) has every reason to appear for future proceedings given the deferral of removal already  
7 granted.

8           These facts demonstrate that Petitioner poses no flight risk and no danger to the  
9 community. Indeed, the Immigration Judge has already found that Petitioner has a credible fear  
10 of persecution and would face torture if removed. This finding undermines any suggestion that he  
11 would voluntarily leave the United States.

12           Respondents have provided no individualized assessment of these factors. They rely solely  
13 on the categorical assertion that section 1225(b)(1)(B)(ii) mandates detention. But as explained  
14 above, that statute cannot constitutionally mandate indefinite detention without individualized  
15 review.

16           Under Rodriguez, once the six-month threshold is passed (and certainly after 14 months),  
17 the government bears the burden of proving by clear and convincing evidence that continued  
18 detention is justified. Respondents have made no such showing here. Accordingly, Petitioner is  
19 entitled to release on conditions of supervision or, at minimum, a bond hearing at which the  
20 government must satisfy its burden of proof.

21           **III. CONCLUSION**

22           Petitioner Helmer Castro Caballero has been detained for over 14 months without any  
23 individualized determination that his detention is necessary. This prolonged detention violates the  
24 Due Process Clause of the Fifth Amendment.

25           This Court has jurisdiction to review Petitioner's constitutional claims under the habeas  
26 corpus statute, 28 U.S.C. section 2241, and the Suspension Clause. Respondents' jurisdictional  
27 arguments under section 1252 are unavailing because they do not eliminate habeas review of  
28 constitutional challenges to prolonged detention.

1 The Ninth Circuit's decision in *Rodriguez v. Robbins* establishes that prolonged detention  
2 without bond hearings violates due process. That constitutional principle applies to Petitioner's  
3 detention under section 1225(b)(1)(B)(ii). Respondents cannot avoid this constitutional  
4 requirement by invoking statutory language that purports to make detention mandatory.

5 Finally, the undisputed facts demonstrate that Petitioner poses neither a flight risk nor a  
6 danger to the community. He has strong ties to the United States, no criminal record, and a grant  
7 of deferral of removal based on his fear of torture. There is no justification for his continued  
8 detention.

9 For these reasons, Petitioner respectfully requests that this Court grant his Petition for Writ  
10 of Habeas Corpus and order his immediate release on conditions of supervision or, in the  
11 alternative, order the government to provide him with a bond hearing consistent with *Rodriguez*  
12 *v. Robbins*, at which the government must prove by clear and convincing evidence that his  
13 continued detention is justified.

14  
15 Dated:

*s/ Jason Ronis*

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JASON RONIS

Francisco J. Aldana

LAW OFFICES OF JASON A. RONIS

105 F Street, Third Floor

San Diego, California 92101

Telephone: (619) 813-8058

Attorneys for Petitioner