

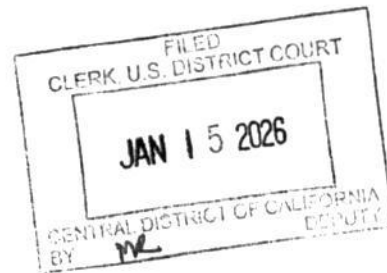
**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

Saddam Samaan Daoud Samaan,  
*Petitioner,*

ED  
*Case No. 25-CV-03288-MWC-PVC*

v.

**M. Bowen**, Warden at the Adelanto  
ICE Processing Center;



**Kristi Noem**, Secretary of  
Homeland Security;

**Pemela J. Bondi**, Attorney General  
of the United States;

**Thomas Giles**, Los Angeles Field Office  
Director, Bureau  
of Immigration and Customs Enforcement;

**James Pilkington**, Assistant Field  
Office Director, Adelanto  
Detention Facility,

*Respondents.*

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**MOTION TO AMEND PETITION FOR A WRIT OF HABEAS CORPUS**  
**PURSUANT TO 28 U.S.C. § 2241**  
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**Comes Now** Saddam Samaan (“Petitioner”), pro se, and respectfully moves this Honorable Court to grant this motion and allow him to amend his Petitioner for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, filed on December 5, 2025.

In his initial filings, Petitioner challenged the constitutionality of his detention, given the fact that the Immigration Judge and the DHS Attorneys are fully responsible for this prolonged detention. However, after further research, Petitioner learned of the test that was used in *Lopez v. Garland, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022)*.

Under *Lopez v. Garland, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022)*<sup>1</sup>, the Court looks to "the total length of detention to date, the likely duration of future detention, and the delays in the removal proceedings caused by the petitioner and the government" to determine whether detention pursuant to 8 U.S.C. § 1226(c) has become unreasonable. *Id. See Lopez, 631 F. Supp. 3d at 879.*

**A. Total Length of Detention to Date.**

Here, Petitioner has been in immigration detention since October 19, 2023<sup>2</sup>, approximately twenty-seven months. In previous cases, the District courts have found significantly shorter lengths of detention to be unreasonable. *See Lopez, 631 F. Supp. 3d at 879 (granting habeas relief and ordering individualized bond hearing for petitioner detained approximately one year and citing cases where detentions of two months, eight months, and eleven months were found unreasonable).*

In *Rodriguez Diaz v. Garland, 53 F.4th 1189, 1199-1201 (9th Cir. 2022)*, the Ninth Circuit "assume[d]" that fourteen months of detention without a bond hearing "qualifies as 'prolonged' in a general sense." *53 F.4th at 1207.* "In general, '[a]s detention continues past a year, courts become extremely wary of permitting continued custody absent a

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<sup>1</sup> Appeal dismissed per stipulation, No. 22-16831, 2023 U.S. App. LEXIS 1152, 2023 WL 2240474 (9th Cir. Jan. 17, 2023).

<sup>2</sup> Petitioner's release date from the BOP was set for October 18, 2023. However, the BOP kept Petitioner in their custody until October 19, 2023, which is when ICE arrived for pick up schedule.

bond hearing." *Gonzalez, 2019 U.S. Dist. LEXIS 12636, 2019 WL 330906, at \*3 (alteration in original) (quoting Muse, 409 F. Supp. 3d at 716).*

In this case, Petitioner has been detained for more than 2-years without a bond hearing. Accordingly, the Court must find that the first *Lopez* factor weighs in favor of Petitioner.

#### **B. Likely Duration of Future Detention**

In *Sanchez-Rivera v. Matuszewski, No. 22-cv-1357-MMA (JLB), 2023 U.S. Dist. LEXIS 3858, 2023 WL 139801, at \*6 (S.D. Cal. Jan. 9, 2023)*, the Court found that "Petitioner's appeal of his removal order to the Ninth Circuit will likely be 'sufficiently lengthy such that this factor weighs in favor of Petitioner'" (*citation omitted*); *Zagal-Alcaraz, 2020 U.S. Dist. LEXIS 64994, 2020 WL 1862254, at \*4*, finding that "Petitioner will remain in custody for a sufficiently lengthy period of time justify a bond hearing".

In this case, Petitioner had served the last 27-months of detention in *ICE* custody while the case still not ready for the *BIA* to review. His appeal was mailed on November 17, 2025, however, was not received in the *BIA* until December 3, 2025. On average, the *BIA* takes minimum 5 to 6 month to rule on the merits of the appeal, if there is no technical issues committed by the Immigration Judge ("*IJ*") or the *DHS* attorneys during the removal proceedings. In addition, in case Petitioner is not successful in his appeal to the *BIA*, he is planning to raise the matter to the Ninth Circuit Court of Appeals, because Aggravated Identity Theft in Violation of 18 U.S.C. § 1028A, was never found to be an aggravated felony under section 101(a)(43)(G) of the Act. Rather,

it only falls under section 101(a)(43)(M)(i) of the Act. However, the appeal process in the Ninth Circuit takes between one to two years on average.

Given the fact that Petitioner's appeal is pending in the **BIA**, and his determination to continue appealing to the Ninth Circuit, this Court must find that the second **Lopez** factor weighs in favor of Petitioner also.

### C. Delays Caused by Petitioner and the Government

On October 18, 2023, Petitioner's completed his 87-months sentence at the **BOP**. However, **ICE** didn't arrive at the **BOP** until October 19, 2023. On October 20, 2023, the **DHS** issued a Notice to Appear ("NTA"), however, Petitioner never received a copy of the **NTA**.

On November 3, 2023, Petitioner appeared *pro se* at a master calendar hearing. During the hearing, Petitioner indicated that he struggles from mental health conditions.

On November 15, 2023, the Immigration Court ("Court") conducted a competency hearing.

On December 27, 2023, the Court ultimately found Petitioner competent to represent himself. At the same hearing, the Court provided Petitioner with a list of *pro bono* legal services organizations<sup>3</sup>.

On January 21, 2024, Petitioner appeared in Court and he requested a continuance for the first and only time, because one of the *pro bono* organizations had showed interest in representing him during the removal proceedings. The Court agreed to reschedule the matter for February 9, 2024.

On February 9, 2024, the Court found Petitioner to be removable reasoning his conviction of Aggravated Identity Theft to be an "aggravated felony" under section

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<sup>3</sup> None of these organizations has provided any help to Petitioner.

**101(a)(43)(G) of the INA**. Subsequently, the Court set the hearing for March 20, 2024, and directed Petitioner to submit his **I-589** Asylum Application prior to the hearing. The Court finally set the final hearing for May 15, 2024<sup>4</sup>.

In Mid June of 2024, the Court denied Petitioner's application for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT").

Petitioner filed a timely appeal to the **BIA**. However, on October 31, 2024, while the appeal was pending, the **DHS** realized that the **IJ** has failed to request an in-person competency evaluation as required under ***Franco-Gonzalez v. Holder, No. CV 10-02211 DMG (DTBx). 2014 WL 5475097 (C.D. Cal. Oct. 29. 2014)***, therefore, they filed a motion for limited remand.

On November 21, 2024, the **BIA** granted the motion and the case was remanded in order for the **IJ** to request an in-person competency evaluation. The **IJ** waited until late December of 2024, to issue an order for in-person forensic competency evaluation, and he scheduled January 30, 2025 for a Judicial Competency Hearing. However, **ICE** and the private facility has failed to communicate regarding the professional visit, therefore, the facility declined to allow the appointed Doctor from entering the facility.

On January 30, 2025, Petitioner appeared before the **IJ**, and he was informed that his in-person evaluation will be conducted on January 31<sup>st</sup>, 2025<sup>5</sup>, and his Judicial Competency Hearing will be rescheduled for March 2<sup>nd</sup>, 2025.

On February 27, 2025, the **IJ** issued his written decision for the second time, and he returned the case back to the **BIA**, without conducting Judicial Competency Hearing<sup>6</sup> as required under ***Franco-Gonzalez v. Holder, No. CV 10-02211 DMG (DTBx). 2014 WL 5475097 (C.D. Cal. Oct. 29. 2014)***<sup>7</sup>.

<sup>4</sup> On May 15, 2024, Petitioner testified before the Court in support of his asylum claims.

<sup>5</sup> The evaluation was conducted by Dr. Stephanie Bitner, and she found Petitioner to be competent.

<sup>6</sup> In the Judicial Competency Hearing the parties are allowed to submit additional evidence and argument.

<sup>7</sup> The Judicial Competency Hearing was scheduled for March 2, 2025. However, the hearing was canceled in the presence of the DHS attorney, and without the presence or the knowledge of Petitioner.

Petitioner filed a timely appeal for the second time, however, on March 30, 2025, the **DHS** filed a second motion for limited remand, asking the **BIA** to remand the case due to the fact that the **IJ** has failed to conduct a Judicial Competency Hearing after the evaluation report was submitted, as also required under ***Franco-Gonzalez v. Holder, No. CV 10-02211 DMG (DTBx). 2014 WL 5475097 (C.D. Cal. Oct. 29. 2014).***

On May 14, 2025, the **BIA** granted the motion and the case was remanded with instructions to the **IJ** to conduct the Judicial Competency Hearing. However, the **IJ** didn't conduct the hearing until May 23, 2025.

On the same day, Petitioner filed a timely notice of appeal, and on July 14, 2025, Petitioner filed his memorandum brief in support of his claims.

Finally, on October 30, 2025, the **BIA** remanded the case back to the **IJ**, simply because he failed to provide in his written decision, the "fact findings and legal analysis regarding Respondent's removability".

Clearly, the only continuous that was based on a request from petitioner is the one on January 21, 2024, and it was rescheduled for February 9, 2024, which is a total of 19-days. However, the remaining of the 27-months of detention, and any duration of future detention is caused by the government<sup>8</sup>, mainly by the **IJ** for not complying with requirements of ***Franco-Gonzalez v. Holder***, and for not providing the **BIA** with the fact findings and the legal analysis regarding Petitioner's removability. In addition, the **DHS** attorney must be held equally responsible, because they were present during every hearing in which the **IJ** committed his mistakes, and they were present during his ***Ex-Parte*** decisions to cancel the hearings that were scheduled. Accordingly, the Court must find that the first, second, and third ***Lopez*** factors all weighs in favor of Petitioner.


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<sup>8</sup> The DHS attorney shares the same physical address and they constantly discuss other respondents matters without their presence.

**CONCLUSION**

It is clear as day that the entire duration of Petitioner's detention is caused by mistakes that were committed by the Government. The last three remand were due to technicalities during the proceedings, which prohibited the BIA to rule on the merits of Petitioner's appeal. However, these remands had caused Petitioner's duration of detention to reach 27-months, while the case is back under review by the BIA for the fourth time. Therefore, this Court must order the release of Petitioner on supervised release, or to issue an order directing Respondents to release Petitioner on a bond, after considering his financial status, and the fact that Petitioner will be on a federal probation due to his convictions in the District of Minnesota.

*Respectfully Submitted*

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**Adelanto, CA 92301**