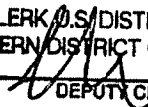


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CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY  DEPUTY CLERK

David Betancourt Gomez
A-Number: 
10250 Rancho Road,
West Wing, Room 106
Adelanto, California 92301
Pro Se

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

DAVID BETANCOURT GOMEZ
A# 

Petitioner,

vs.

KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security,
**DEPARTMENT OF HOMELAND
SECURITY; PAM BONDI**, Attorney General of
United States, **CHERYL M. DAVIES**, Director
and/or the Acting Director of the Los Angeles
Field Office of U.S. Immigration and Customs
Enforcement, **WARDEN ADELANTO ICE
PROCESSING CENTER**, and **UNITED
STATES ENFORCEMENT AND REMOVAL
OPERATIONS**,

Respondents.

Case No.: 1:25-cv-01866-DC-AC

**PETITIONER'S MOTION FOR
PRELIMINARY INJUNCTION AND
STATUS STATEMENT**

**(EXPLICITLY ADDRESSING COURT'S
TRO DENIAL UNDER LOCAL RULE
231(B))**

PETITIONER'S MOTION FOR PRELIMINARY INJUNCTION AND STATUS STATEMENT

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<i>Zadvydas v. Davis</i> , 533 U.S. 678 (2001)	4

I. INTRODUCTION

Petitioner respectfully moves for a **Preliminary Injunction** ordering Respondents to provide constitutionally adequate custody relief, including Petitioner's immediate release or, in the alternative, a prompt individualized bond hearing before a neutral decision-maker at which the Government bears the burden of proof.

This motion is filed in direct response to the Court's **December 17, 2025 Minute Order**, which denied Petitioner's Motion for Temporary Restraining Order ("TRO") **without prejudice** based solely on Local Rule 231(b). The Court did not reach the merits of Petitioner's constitutional claims. This motion cures the procedural concern identified by the Court by proceeding through the ordinary noticed preliminary injunction process and by providing a detailed explanation of the timing of injunctive relief, supported by Petitioner's **Supplemental Declaration Regarding Timing of Injunctive Relief**, filed concurrently herewith and incorporated by reference.

Petitioner now seeks a **Preliminary Injunction**, which is the appropriate vehicle for relief where the need for injunctive relief arises from prolonged detention and intervening developments rather than last-minute emergency circumstances. This motion squarely addresses the Court's concerns regarding timing and provides a detailed explanation of why injunctive relief is now necessary.

II. STATUS STATEMENT REGARDING TRO DENIAL

On December 17, 2025, the Court denied Petitioner's Motion for Temporary Restraining Order without prejudice, noting that Petitioner did not explain why injunctive relief had not been sought earlier, as required by Local Rule 231(b). The denial was expressly procedural and did not adjudicate the merits of Petitioner's prolonged-detention claims. This motion seeks relief through

1 the appropriate procedural vehicle identified by the Court and directly addresses the timing
2 concern.

3 **III. FACTUAL BACKGROUND**

4
5 Petitioner has been detained in immigration custody since approximately **June 8, 2024**, a
6 period now exceeding **seventeen months**. Respondents rely primarily on a single conviction for
7 possession of MDMA that occurred **more than twenty years ago**. Since that conviction, Petitioner
8 has had **no subsequent criminal arrests or convictions** and lived in the community without
9 incident for decades.

10
11 Respondents characterize Petitioner as a flight risk based primarily on the allegation that
12 Petitioner crossed the Arizona border on or about January 2024 after having been ordered removed
13 in December 2003. Based on this conduct, an Immigration Judge has denied bond on multiple
14 occasions.

15
16 On **February 18, 2025**, Petitioner was granted **deferral of removal under the**
17 **Convention Against Torture (CAT)**. As a result, Petitioner cannot be removed to his country of
18 origin in the foreseeable future. Despite the absence of imminent removal, the staleness of
19 Petitioner's criminal history, and the length of detention, Petitioner remains confined without a
20 constitutionally adequate custody determination that accounts for current circumstances or
21 alternatives to detention.

22 23 **IV. JUSTIFICATION FOR TIMING OF INJUNCTIVE RELIEF (CURING TRO** 24 **DEFECT)**

25 This motion directly addresses the concern identified in the Court's Minute Order and
26 demonstrates that injunctive relief is timely and appropriate.

1 **A. Petitioner Reasonably Relied on Counsel Until December 2, 2025**

2 As set forth in Petitioner’s Supplemental Declaration, Petitioner was represented by
3 retained counsel for a substantial portion of his detention and reasonably relied on counsel’s
4 professional judgment regarding litigation strategy and the timing of injunctive relief. Due to
5 irreconcilable differences regarding case strategy, Petitioner discharged counsel on **December 2,**
6 **2025.** Immediately thereafter, Petitioner began conducting his own legal research, learned that
7 habeas corpus relief was available, and promptly sought injunctive relief. Any delay was the result
8 of reasonable reliance on counsel—not gamesmanship or neglect.
9

10 **B. The Constitutional Injury Ripened as Detention Became Prolonged**

11 Petitioner’s claim arises from **prolonged civil detention**, which becomes constitutionally
12 significant over time. While earlier periods of detention may fall within tolerable bounds, detention
13 exceeding seventeen months—particularly following a grant of CAT deferral—crosses the line
14 into unreasonableness. The harm is ongoing and continues to escalate with each passing day.
15

16 **C. Administrative Exhaustion Demonstrates Diligence, Not Delay**

17 Petitioner sought release through the immigration court and appeared before an
18 Immigration Judge on multiple occasions seeking bond. These efforts demonstrate diligence and
19 good faith exhaustion of administrative remedies prior to seeking federal injunctive relief.
20

21 **D. This Motion Properly Proceeds Under the Ordinary Noticed Process**

22 Unlike a TRO, a preliminary injunction does not rely on last-minute emergency
23 circumstances. By filing this motion through the noticed process and providing a detailed
24 explanation of timing, Petitioner fully complies with Local Rule 231(b) and cures the procedural
25 deficiency identified by the Court.
26
27
28

1 **V. LEGAL STANDARD**

2 A preliminary injunction is appropriate where the movant demonstrates (1) a likelihood of
3 success on the merits; (2) irreparable harm absent injunctive relief; (3) that the balance of equities
4 tips in the movant's favor; and (4) that an injunction is in the public interest. *Winter v. Nat. Res.*
5 *Def. Council, Inc.*, 555 U.S. 7, 20 (2008). In the Ninth Circuit, these factors are evaluated on a
6 sliding scale. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–35 (9th Cir. 2011).
7

8
9 In habeas proceedings, courts retain broad equitable authority to remedy ongoing
10 constitutional violations arising from civil detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690
11 (2001).

12 **VI. ARGUMENT**

13 **A. Petitioner Is Likely to Succeed on the Merits**

14
15 **1. Mandatory Detention Does Not Permit Indefinite or Unreviewable Confinement**

16 Even where the Government asserts that detention is mandatory under the immigration
17 statutes, the Due Process Clause imposes constitutional limits. Civil detention must remain
18 reasonably related to its regulatory purpose and may not become indefinite. *Zadvydas v. Davis*,
19 533 U.S. 678, 690 (2001). As detention grows prolonged, due process requires a meaningful,
20 individualized determination of whether continued confinement remains justified. *Rodriguez v.*
21 *Robbins*, 715 F.3d 1127, 1138–39 (9th Cir. 2013), rev'd on other grounds, 583 U.S. 291 (2018).
22

23 Here, Petitioner's detention has exceeded seventeen months with no foreseeable end,
24 particularly in light of the CAT deferral. Regardless of the statutory label Respondents apply,
25 prolonged detention without a constitutionally adequate custody determination violates due
26 process. See *Diouf v. Napolitano*, 634 F.3d 1081, 1091–92 (9th Cir. 2011).
27

28 **2. Reliance on a Decades-Old Conviction Cannot Justify Prolonged Civil Detention**

1 Respondents rely on a possession conviction that occurred more than twenty years ago.
2 Courts consistently recognize that stale criminal history has diminished probative value, especially
3 where an individual has demonstrated long-term rehabilitation and law-abiding conduct. See
4 *United States v. Salerno*, 481 U.S. 739, 747 (1987) (civil detention must be carefully limited);
5 *Singh v. Holder*, 638 F.3d 1196, 1205 (9th Cir. 2011) (due process requires consideration of current
6 circumstances).

7
8 Petitioner has had no criminal arrests or convictions in the two decades following the
9 offense. Continued reliance on this stale conviction to justify prolonged detention violates
10 fundamental due process principles.

11
12 **3. Flight-Risk Assertions Must Be Individualized and Supported by Current Evidence**

13 Respondents contend that Petitioner is a flight risk because he reentered the United States
14 by crossing the Arizona border in or about January 27, 2024, after having been ordered removed
15 on or about December 8, 2003. While this history may be relevant, it does not end the constitutional
16 inquiry.

17
18 Due process requires an individualized assessment of whether **current** facts establish that
19 no conditions of release could reasonably assure appearance. *Hernandez v. Sessions*, 872 F.3d 976,
20 991 (9th Cir. 2017). A past immigration violation—particularly one separated by decades from the
21 underlying removal order—cannot, standing alone, justify prolonged civil detention without
22 meaningful procedural safeguards.

23
24 Here, Petitioner's circumstances have materially changed. He has no recent criminal
25 history, has been detained for over seventeen months and he has not had any disciplinary actions
26 while in custody, and has been granted CAT deferral, eliminating any realistic prospect of removal
27
28

1 in the foreseeable future. These factors substantially mitigate flight-risk concerns and require
2 consideration of alternatives to detention.

3 **4. CAT Deferral Eliminates Any Legitimate Removal-Based Justification for Continued**
4 **Detention CAT Deferral Eliminates Any Legitimate Removal-Based Justification for**
5 **Continued Detention**
6

7 The grant of deferral of removal under the Convention Against Torture on February 18,
8 2025, materially alters the detention analysis. Because Petitioner cannot be removed to his country
9 of origin in the foreseeable future, detention is no longer reasonably related to effectuating removal.
10 Continued confinement under these circumstances becomes punitive rather than regulatory, in
11 violation of due process. See *Zadvydas*, 533 U.S. at 690.

13 **5. Prior Immigration Judge Bond Denials Do Not Foreclose Habeas Relief**

14 Respondents may argue that prior bond denials bar relief. That argument is incorrect.
15 Federal courts retain authority to remedy constitutional violations arising from prolonged detention,
16 regardless of prior administrative custody determinations. See *Singh*, 638 F.3d at 1205–06.
17 Repeated bond denials underscore the absence of constitutionally sufficient safeguards as
18 detention becomes prolonged.
19

20 **B. Petitioner Is Suffering Irreparable Harm**

21 Loss of physical liberty constitutes irreparable harm as a matter of law. Each additional
22 day of unconstitutional detention inflicts harm that cannot be remedied by later relief.
23

24 **C. The Balance of Equities Favors Petitioner**

25 Petitioner faces ongoing deprivation of liberty based on stale criminal history and
26 speculative flight-risk assertions. Respondents, by contrast, face only the obligation to provide a
27
28

1 constitutionally adequate custody determination. The balance of equities strongly favors injunctive
2 relief.

3 **D. An Injunction Is in the Public Interest**

4 The public has a compelling interest in ensuring that civil immigration detention remains
5 tethered to constitutional limits and does not devolve into indefinite confinement. Granting
6 injunctive relief here serves that interest.

7 **VII. REQUESTED RELIEF**

8
9
10 Petitioner respectfully requests that the Court grant a Preliminary Injunction ordering
11 Respondents to provide a **constitutionally adequate custody determination**, specifically:

- 12
- 13 1. A prompt individualized bond hearing before a neutral adjudicator.
 - 14 2. At which the Government bears the burden of proving by **clear and convincing evidence**
15 that Petitioner presents a current risk or danger.
 - 16 3. Requiring consideration of the **staleness of Petitioner's criminal history**, the grant of
17 CAT deferral, the length of detention, and alternatives to detention.
 - 18 4. Or, in the alternative, Petitioner's immediate release subject to appropriate conditions of
19 supervision.

20 **VIII. CONCLUSION**

21 This Motion directly cures the procedural defect identified in the Court's TRO denial and
22 seeks relief through the appropriate procedural vehicle. Because Petitioner's prolonged detention
23 violates due process, the Court should grant the requested preliminary injunction.

24 Respectfully submitted,

25 
26 _____
27 David Betancourt Gomez
A# 

28 Dated this 18th of DECEMBER, 2025.

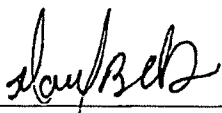
**DECLARATION OF DAVID BETANCOURT GOMEZ, PETITIONER REGARDING
TIMING OF INJUNCTIVE RELIEF**

I, David Betancourt Gomez, a pro se Petitioner, declare as follows:

1. I am the Petitioner in this habeas corpus action and make this declaration based on my personal knowledge. If called as a witness, I could and would testify competently to the facts stated herein.
2. Following my detention, I was represented by retained counsel in connection with my immigration proceedings and related legal matters.
3. During the period of representation, I reasonably relied on counsel to determine the appropriate legal strategy and timing for seeking any injunctive relief in federal court, including whether and when to seek emergency relief.
4. While represented, I understood that counsel was addressing my case through other legal avenues and exercising professional judgment regarding the filing of motions.
5. Due to irreconcilable differences concerning case strategy, I discharged my counsel on December 2, 2025.
6. After discharging counsel and proceeding pro se, I promptly undertook efforts to conduct my own legal research and to prepare and file motions on my own behalf. Through this research, I learned that I could seek relief from my continued detention through a petition for writ of habeas corpus and related requests for injunctive relief.
7. I did not delay seeking injunctive relief for strategic purposes or to gain any tactical advantage. Rather, any delay was the result of my reasonable reliance on counsel while represented.
8. My detention and the resulting deprivation of liberty have been continuous and ongoing throughout this period, and each day of continued detention causes me ongoing and irreparable harm.
9. I submit this declaration to explain the timing of my request for injunctive relief and to demonstrate that I acted diligently once I was no longer represented by counsel.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 13th day of December, 2025.



David Betancourt Gomez

A 