

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Linda Brilly OSORIO MADRID,

Petitioner,

v.

Laura HERMOSILLO, Seattle Acting Field
Office Director, Enforcement and Removal
Operations, Immigration and Customs
Enforcement (ICE); Kristi NOEM, Secretary,
U.S. Department of Homeland Security;
Pamela BONDI, U.S. Attorney General; Bruce
SCOTT, Warden of Northwest ICE Processing
Center,

Respondents.

Case No. 2:25-cv-02695-GJL

PETITIONER'S TRAVERSE

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INTRODUCTION

Respondents concede that they have subjected Ms. Osorio Madrid to prolonged detention, do not dispute the conditions of her confinement, and identify no governmental interest that affirmatively justifies her confinement. Her continued detention without a bond hearing is plainly unreasonable and unconstitutional: multiple *Banda v. McAleenan* factors weigh strongly in her favor, while no factor favors the government. 385 F. Supp. 3d 1099 (W.D. Wash. 2019). The Court should therefore order a bond hearing consistent with the procedural protections Ms. Osorio Madrid seeks.

ARGUMENT

I. Petitioner's Unreasonably Prolonged Detention Violates Due Process

Under *Banda*, courts look to “(1) the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings cause[d] by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal.” *Banda*, 385 F. Supp. 3d at 1106 (citation omitted). Each of these factors either favors Ms. Osorio Madrid or is neutral.

A. Length of Detention

The length of detention is the “most important factor.” *Banda*, 385 F. Supp. 3d at 1118. Ms. Osorio Madrid has been detained since April 18, 2025—for over nine months. Respondents concede that Ms. Osorio Madrid’s detention has become prolonged, but simply point to other cases in which longer lengths of detention were found to be unreasonable. Return at 6. That prolonged mandatory detention has lasted even longer in some other cases does not render Ms. Osorio Madrid’s nine-month confinement reasonable. Courts, including this Court, have found prolonged detention unreasonable at and before nine months of detention. *See, e.g., Perez v. Decker*, No. 18-

CV-5279 (VEC), 2018 WL 3991497, at *5 n.11 (S.D.N.Y. Aug. 20, 2018) (nine months’ detention without a hearing is unreasonable); *Brissett v. Decker*, 324 F. Supp. 3d 444, 452 (S.D.N.Y. 2018) (same); *Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (same, for 7 months); *Masood v. Barr*, No. 19-cv-07623-JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020) (unreasonable where petitioner’s detention extended “for nearly nine months, and there [wa]s no reasonably certain end to his custody in sight”); *Anyanwu v. U.S. ICE Field Off. Dir.*, No. 2:24-CV-00964-LK-GJL, 2024 WL 4627343, at *4 (W.D. Wash. Sept. 17, 2024) (“[E]ven if the Court were to limit its consideration to the first seven months of Petitioner’s detention, the first factor would still tilt in his favor as this period exceeds the six-month benchmark established in *Demore*.”).

B. Likely Duration of Future Detention

Courts consider the “anticipated duration of all removal proceedings—including administrative and judicial appeals” in evaluating the length of future detention. *Banda*, 385 F. Supp. 3d at 1119 (citation omitted). Respondents ignore that, on the present record, there is no discernible path to Ms. Osorio Madrid’s release in the near future. Her removal proceedings are stayed pending USCIS adjudications of her eligibility for asylum and Special Immigrant Juvenile Status (“SIJS”) deferred action, and neither of these adjudications is likely to be resolved in the short term. Last month, USCIS issued a Policy Memorandum placing a hold on *all* pending I-589 applications, regardless of country of nationality. USCIS, Policy Memorandum: Hold and Review of all Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk Countries, PM-602-0192 (Dec. 2, 2025) (last accessed Jan. 20, 2026), <https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf>. The suspension of all pending asylum applications precludes adjudication of Ms. Osorio Madrid’s I-589 application. As of two

1 months ago, USCIS is legally obligated to conduct deferred action adjudications for SIJS recipients
 2 like Ms. Osorio Madrid. *See A.C.R. v. Noem*, --- F. Supp. 3d ----, 2025 WL 3228840 (E.D.N.Y.
 3 Nov. 19, 2025). But USCIS has not agreed to conduct those adjudications within any period of
 4 time or provided any guidance. On its website, USCIS states: “While USCIS strongly disagrees
 5 with the erroneous actions of this district judge, while the stay is in effect, USCIS will comply
 6 with the court’s order and apply the 2022 Policy Alert to the extent required by the court order.”
 7 USCIS, Special Immigrant Juvenile (SIJ) Frequently Asked Questions (last accessed Jan. 20,
 8 2026), [https://www.uscis.gov/working-in-the-united-states/permanent-](https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-juveniles/special-immigrant-juvenile-sij-frequently-asked-questions)
 9 [workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-](https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-juveniles/special-immigrant-juvenile-sij-frequently-asked-questions)
 10 [juveniles/special-immigrant-juvenile-sij-frequently-asked-questions](https://www.uscis.gov/working-in-the-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-juveniles/special-immigrant-juvenile-sij-frequently-asked-questions). Respondents do
 11 not dispute that Ms. Osorio Madrid is entitled to adjudication of her pending asylum and SIJS
 12 deferred action applications, that her removal proceedings have been continued pending those
 13 adjudications, or that USCIS has provided no timeline for when—or even whether—those
 14 adjudications will occur. In the meantime, Ms. Osorio Madrid remains detained, with no defined
 15 or reasonably foreseeable endpoint to her custody.

18 If Ms. Osorio Madrid’s removal proceedings resume, she faces even more prolonged
 19 detention until all appeals are exhausted in her case, which can take approximately 18 additional
 20 months. *Arido-Sorro v. Garland*, No. CV-23-00842-PHX-JAT (ESW), 2024 WL 4393264, at *4
 21 (D. Ariz. Sept. 5, 2024) (duration of future detention weighed in petitioner’s favor, “[g]iven the
 22 uncertainty surrounding the duration of [his] future detention and the potential for a lengthy
 23 appeals process”); *Toktosunov v. Wamsley*, No. 2:25-cv-1724-TL, 2025 WL 3492858, at *5 (W.D.
 24 Wash. Dec. 5, 2025) (finding, as of December 2025, that “BIA appeals take over six months”);
 25 *Pasillas v. ICE Field Off. Dir.*, No. C21-681-RAJ-MLP, 2021 WL 8084206, at *5 (W.D. Wash.
 26

Oct. 18, 2021) (noting that Ninth Circuit oral argument may not be set for 12–20 months from the time the notice of appeal is filed and the court may take three months to a year to decide the case). In short, additional detention is not speculative in Ms. Osorio Madrid’s case, and the second factor weighs in her favor.

C. Conditions of Detention

Respondents do not dispute that the conditions of confinement factor favors Petitioner, offering a single sentence with no argument or countering evidence. *Compare* Dkt. 1-2 ¶¶ 6–8, 10 (describing conditions at NWIPC, including spending ten hours a day locked in a cell, only being allowed outside for an hour a day, and problems with food and medical neglect), *with* Return at 7 (“As for the third *Banda* factor – conditions of detention, Petitioner is detained at the NWIPC.”). Indeed, courts in this District have repeatedly found that the conditions of detention at NWIPC “are similar to many prisons and jails.” *Reyes v. Wolf*, No. C20-0377-JLR-MAT, 2020 WL 6820903, at *6–8 (W.D. Wash. Aug. 7, 2020), *R. & R. adopted as modified on other grounds*, 2020 WL 6820822 (W.D. Wash. Nov. 20, 2020); *Toktosunov*, 2025 WL 3492858, at *5 (same); *Maliwat v. Scott*, No. 2:25-cv-00788-TMC, 2025 WL 2256711, at *6 (W.D. Wash. Aug. 7, 2025) (citing cases). The third factor therefore weighs in Ms. Osorio Madrid’s favor. *See, e.g., Amhirra v. Warden, Nw. Det. Ctr.*, No. 2:25-cv-01376-TL, 2025 WL 3718994, at *7 (W.D. Wash. Dec. 23, 2025) (“The United States asserts only that Petitioner ‘is detained at the NWIPC.’ . . . Given the United States’ failure to rebut Petitioner’s comparison of the NWIPC to prison, the Court finds that the third *Banda* factor weighs in favor of granting a bond hearing.”); *Rahman v. Garland*, No. 2:24-cv-02132-JHC-TLF, 2025 WL 1920341, at *4 (W.D. Wash. June 26, 2025), *R. & R. adopted*, 2025 WL 1919252 (W.D. Wash. July 11, 2025) (similar).

D. Delays in Removal Proceedings

The parties agree that the fourth and fifth *Banda* factors are neutral.

1 E. Likelihood of a Final Order

2 The final *Banda* factor favors relief. “[W]here a noncitizen has asserted a good faith
3 challenge to removal, ‘the categorical nature of the detention will become increasingly
4 unreasonable.’” *Banda*, 385 F. Supp. 3d at 1120 (citation omitted). Respondents largely ignore the
5 fact that Ms. Osorio Madrid’s SIJS petition has already been granted. *See* Return at 7. Given her
6 SIJS grant, she is already eligible to adjust status as soon as a visa number becomes available.

7 In addition, Ms. Osorio Madrid has a pending asylum application before USCIS and is
8 entitled to adjudication of SIJS deferred action—relief that, if granted, would defer or foreclose
9 her removal. Respondents do not dispute the strength or merits of Ms. Osorio Madrid’s
10 applications for relief from removal. Although the precise timing of those adjudications remain
11 uncertain, Ms. Osorio Madrid has raised multiple, good faith challenges to removal, such that this
12 factor weighs in her favor.
13

14 F. This Court Should Grant the Relief Ms. Osorio Madrid Seeks

15 Due process requires that the immigration court conduct an alternative to detention analysis
16 at Ms. Osorio Madrid’s bond hearing, and the Court should reject Respondents’ arguments to the
17 contrary. “When an immigration court determines that a noncitizen is not ‘a danger to the
18 community and not to be so great a flight risk as to require detention without bond,’ due process
19 requires a consideration of the noncitizen’s financial circumstances regarding ability to afford bail,
20 as well as alternative conditions of release.” *Toktosunov*, 2025 WL 3492858, at *6 (quoting
21 *Hernandez v. Sessions*, 872 F.3d 976, 1000 (9th Cir. 2017)). Respondents’ reliance on *Martinez v.*
22 *Clark* is misplaced: by its terms, that case concerns § 1226(c) detention. Return at 7 (citing 36
23 F.4th 1219, 1231 (9th Cir. 2022)); *see Belqasim v. Bostock*, No. 2:25-cv-01282-LK-TLF, 2025
24 WL 3466971, at *11 (W.D. Wash. Oct. 28, 2025), *R. & R. adopted*, 2025 WL 3170929 (W.D.
25 Wash. Nov. 13, 2025) (*Martinez* inapplicable where “petitioner in this case is not subject to
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1 [§ 1226(c)], because there is no evidence petitioner has been charged with or convicted of a
2 crime”). Ms. Osorio Madrid is not detained under § 1226(c).

3 Finally, Respondents ask this Court to decline to hold the bond hearing itself. Return at 8.
4 But Respondents do not suggest this Court lacks the authority to conduct the bond hearing in the
5 first instance, and Ms. Osorio Madrid has only sought this as an alternative request for relief. This
6 Court is well-equipped to evaluate flight risk and danger to the community, should the Court
7 exercise its broad discretion to do so.
8

9 **CONCLUSION**

10 For the foregoing reasons, the Court should grant the writ and order Ms. Osorio Madrid’s
11 release unless Respondents provide a constitutionally adequate hearing with 14 days.
12

13 Dated: January 20, 2025

Respectfully submitted,

14 By: /s/ Bianca Rey

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