

**3:26-cv-00119-TWR-AHG** Cakirgoz v. LaRose et al  
 Todd W. Robinson, presiding  
 Allison H. Goddard, referral  
**Date filed:** 01/08/2026  
**Date of last filing:** 01/22/2026

## History

Doc. No.	Dates	Description
<u>1</u>	<i>Filed:</i> 01/08/2026 <i>Entered:</i> 01/09/2026	 Petition for Writ of Habeas Corpus
<u>2</u>	<i>Filed &amp; Entered:</i> 01/09/2026	 Order to Show Cause
<u>3</u>	<i>Filed &amp; Entered:</i> 01/12/2026	 Affidavit of Service
<u>4</u>	<i>Filed &amp; Entered:</i> 01/13/2026	 Notice of Appearance
<u>5</u>	<i>Filed &amp; Entered:</i> 01/15/2026	 Reply - Other
<u>6</u>	<i>Filed &amp; Entered:</i> 01/21/2026	 Traverse
<u>7</u>	<i>Filed &amp; Entered:</i> 01/22/2026	 Notice of Appearance



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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UFUK CAKIRGOZ,

11 Petitioner,

12 v.

13 CHRISTOPHER LAROSE, warden of  
14 Otay Mesa Detention Center  
15 DANIEL A. BRIGHTMAN, San Diego  
16 Field Office Director, Immigration and  
17 Customs Enforcement and Removal  
18 Operations (“ICE/ERO”);  
19 TODD LYONS, Acting Director of  
20 Immigration Customs Enforcement  
21 (“ICE”);  
22 KRISTI NOEM, Secretary of the  
23 Department of Homeland Security  
24 (“DHS”);  
PAMELA BONDI, Attorney General of  
the United States,  
U.S. DEPARTMENT OF HOMELAND  
SECURITY;  
U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT;

Respondents.

Case No.: '26CV0119 TWR AHG

**PETITION FOR WRIT OF HABEAS  
CORPUS AND ORDER TO SHOW  
CAUSE WITHIN THREE DAYS;  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Agency Doc. No.: A



1 Petitioner UFUK CAKIRGOZ petitions this Court for a writ of habeas corpus  
2 under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully, and states  
3 as follows:

4  
5 **INTRODUCTION**

6 1. Petitioner, UFUK CAKIRGOZ ("Mr. Cakirgoz" or "Petitioner"), by and through  
7 his undersigned counsel, hereby petitions this Court under 28 U.S.C. § 2241, et seq.,  
8 to issue a Writ of Habeas Corpus ordering Mr. Cakirgoz's release from immigration  
9 detention by the Department of Homeland Security, United States Immigration and  
10 Customs Enforcement ("ICE"). Mr. Cakirgoz seeks immediate release from custody  
11 because Respondents have held him since March 29, 2025—a prolonged period. Mr.  
12 Cakirgoz has been waiting almost a year to have his asylum application adjudicated.  
13 After his entry into the United States he was twice denied relief by DHS after he  
14 failed his Credible Fear Interviews. It was not until September 16, 2025, nearly 6  
15 months after his entry, that a court reversed the DHS finding of no credible fear and  
16 allowed his case to move forward. Since then he has filed all his required  
17 documents. His final hearing date is currently set for April 27, 2026. Mr. Cakirgoz  
18 has already been waiting 10 months to have his first day of testimony. He will not  
19 actually have his first day until April 27, 2026. That will be 13 months of detention.  
20 There is no possibility of his removal in the foreseeable future. His continued  
21 detention without a hearing as to flight risk and danger to the community violates  
22 the U.S. Constitution and federal law.  
23  
24

1 **CUSTODY**

2 2. Mr. Cakirgoz is currently in Respondents' legal and physical custody. They are  
3 detaining him at the Otay Mesa Detention Center in San Diego, California. He is  
4 under Respondents' and their agents' direct control.  
5

6 **PARTIES**

7 3. Mr. Cakirgoz is a 39-year-old citizen of Turkey born  He is  
8 currently detained at the Otay Mesa Detention Center in San Diego, California.

9 4. Mr. Cakirgoz is currently in Respondents' legal and physical custody at the  
10 Otay Mesa Detention Center in San Diego, California. CoreCivic, Inc., a Maryland  
11 corporation, operates that facility.

12 5. Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention  
13 Center where Petitioner is being held. Respondent Christopher LaRose oversees the  
14 day-to-day operations of the Otay Mesa Detention Center and acts at the Direction of  
15 Respondents Freden, Lyons and Noem. Respondent Christopher LaRose is a  
16 custodian of Petitioner and is named in his official capacity.  
17

18 6. Respondent Daniel A. BRIGHTMAN is the Acting Field Office Director of ICE in  
19 San Diego, California and is named in his official capacity. ICE is the component of  
20 the DHS that is responsible for detaining and removing noncitizens according to  
21 immigration law and oversees custody determinations. In his official capacity, he is  
22 the legal custodian of Petitioner.  
23  
24

1 7. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his  
2 official capacity. Among other things, ICE is a component of the DHS, 6 U.S.C. § 271,  
3 and an “agency” within the meaning of the Administrative Procedure Act, 5 U.S.C. §  
4 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is  
5 detaining Mr. Cakirgoz. Respondent Lyons has custodial authority over Mr. Cakirgoz,  
6 who names him in his official capacity.  
7

8 8. Respondent Kristi NOEM is the Secretary of the DHS and is named in her  
9 official capacity. DHS is the federal agency responsible for enforcing immigration  
10 laws and granting immigration benefits. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1.  
11 Respondent Noem has ultimate custodial authority over Mr. Cakirgoz, who names  
12 her in her official capacity.

13 9. Respondent Pam BONDI is the Attorney General of the United States and the  
14 most senior official in the U.S. Department of Justice (DOJ) and is named in her  
15 official capacity. She is responsible for the Immigration and Nationality Act’s  
16 implementation and enforcement (see 8 U.S.C. §§ 1103(a)(1), (g)), and oversees the  
17 Executive Office for Immigration Review, the office that administers Mr. Cakirgoz’s  
18 removal proceedings and is responsible for adjudicating Mr. Cakirgoz’s asylum  
19 application. Mr. Cakirgoz names her in her official capacity.  
20

21 10. Respondent U.S. Immigration Customs Enforcement is the federal agency  
22 responsible for custody decisions relating to non-citizens charged with being removable  
23 from the United States, including the arrest, detention, and custody status of non-citizens.  
24

1 11. Respondent U.S. Department of Homeland Security is the federal agency  
2 that has authority over the actions of ICE and all other DHS Respondents.

3  
4 **JURISDICTION AND VENUE**

5 12. This action arises under the United States Constitution and the  
6 Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to  
7 challenge Mr. Cakirgoz’s detention under the INA and any inherent or plenary  
8 powers the government may claim to continue holding him.

9  
10 13. This Court has jurisdiction under 28 U.S.C. § 1331, § 2241; 5 U.S.C. §§  
11 701–706 (Administrative Procedure Act, “APA”); and the Suspension Clause, U.S.  
12 Const. art. I, § 9, cl. 2, and the Fifth and Eighth Amendments of the United States  
13 Constitution. Jurisdiction is not limited by a petitioner’s nationality, immigration  
14 status, or any other classification. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008).  
15 The Court may grant relief under the Suspension Clause; the Fifth and Eighth  
16 Amendments; 5 U.S.C. § 706 (APA); and 28 U.S.C. §§ 1361 (Mandamus Act), 1651  
17 (All Writs Act), 2001 (Declaratory Judgment Act), and 2241 (habeas corpus).

18  
19 14. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review  
20 Mr. Cakirgoz’s detention. Federal district courts possess broad authority to issue  
21 writs of habeas corpus when a person is held “in custody in violation of the  
22 Constitution or laws or treaties of the United States” (28 U.S.C. § 2241(c)(3)), and  
23 this authority extends to immigration detention challenges that survived the REAL  
24 ID Act’s jurisdictional restrictions. Because Mr. Cakirgoz seeks the traditional

1 habeas remedy of release from allegedly unlawful detention, his petition presents  
2 precisely the type of threshold legality-of-detention question that § 2241 was  
3 designed to address. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *see also Lopez-*  
4 *Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d  
5 1196, 1211-12 (9th Cir. 2011)). And federal courts are not stripped of jurisdiction  
6 under 8 U.S.C. § 1252. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No court  
7 has ruled on the legality of Mr. Cakirgoz's detention.  
8

9 15. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1)  
10 because a substantial part of the events or omissions giving rise to this claim have  
11 happened here, Mr. Cakirgoz is detained here, and his custodian resides here. Venue  
12 is also proper under 28 U.S.C. § 2243 because Mr. Cakirgoz's immediate custodian  
13 resides in this District. *See Rumsfeld v. Padilla*, 542 U.S. 426, 451-52 (2004)  
14 (Kennedy, J., concurring).

### 15 **FACTUAL BACKGROUND**

16 16. Mr. Cakirgoz was born in Turkey. His mother's side of the family  
17  in Turkey. Mr. Cakirgoz and his family  
18 have spent years being discriminated against and persecuted by Turkish society and  
19 the government. The United States State Department has documented these abuses  
20 in its annual reports on religious freedom. *See generally* United States Commission  
21 on International Religious Freedom.  
22  
23  
24

1 17. Mr. Cakirgoz has been attacked and beaten by vigilantes in his  
2 hometown demanding that he [REDACTED]  
3 When he reported the crimes to the police, they refused to help him and also  
4 threatened him. He also belongs to a minority political group in Turkey. When the  
5 authorities found out he was part of that group and handing out leaflets, he was  
6 once again threatened and warned to stop supporting this group or his life would be  
7 forfeit. As the situation escalated, he realized he would only be safe if he escaped  
8 Turkey.  
9

10 18. He made his way to Mexico and finally crossed into the United States on  
11 March 29, 2025. He immediately encountered CBP officers and was taken into  
12 custody. He has been in detention at Otay Mesa Detention Center since March 29,  
13 2025.

14 19. Respondents initially held Mr. Cakirgoz for six months denying he had a  
15 credible fear of persecution if returned to his home country. However, upon review,  
16 an IJ reversed the DHS and determined that he did have a credible fear and allowed  
17 him to move forward with an asylum application. His Notice to Appear was finally  
18 filed on October 8, 2025, over six months after he was initially detained. His first  
19 Master Calendar was 10/21/2025 with a follow up on 11/13/ 2025 and another on  
20 12/11/2025, almost nine months after his initial detention. He was finally given an  
21 individual hearing for April 27, 2025.  
22

23 20. Individual hearings are where the asylum application is actually  
24 adjudicated with testimony and cross examination. Each Individual hearing in

1 the detention court system is only 2 hours long. Mr. Cakirgoz's case will take  
2 much longer than that so he can expect his case to be continued for at least 2  
3 times. Once for more testimony and once for closing and disposition by the judge.  
4 Currently individual hearings are being set 4-6 months out from the current  
5 hearing. So Mr. Cakirgoz can expect another year in detention before his asylum  
6 case is finally adjudicated.  
7

8 21. There is no end in sight to Mr. Cakirgoz' detention ... not because he is a  
9 flight risk or a threat to the community. That has never been determined. On  
10 December 5, 2025 he was denied a bond with the court asserting they did not have  
11 jurisdiction to issue the bond. He remains in detention because the administration  
12 insists that all people that lack a green card or citizenship must be detained.

13 22. On July 8, 2025, the Department of Homeland Security ("DHS")  
14 instituted a notice titled "Interim Guidance Regarding Detention Authority for  
15 Applicants for Admission" (the "Notice") requiring, in general, that anyone arrested  
16 in the United States and charged with being inadmissible to be considered an  
17 "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A), subject to mandatory  
18 detention under 8 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8 U.S.C.  
19 § 1226(a).  
20

21 23. In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.  
22 Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared  
23 the Notice unlawful under the Administrative Procedures Act but did not issue a  
24

1 final judgment. On December 18, 2025, however, the *Bautista* court entered final  
2 judgement. *Bautista*, ECF No. 94.

3 24. Mr. Cakirgoz tried to ask for a bond but IJ's have consistently ruled that  
4 they do not have jurisdiction to redetermine the conditions of custody over  
5 individuals who have been apprehended shortly after entering the United States and  
6 who have been processed under Section 235(b)(1) expedited removal statute, and  
7 who have been placed in removal proceedings. Even after *Maldonado, supra*, was  
8 decided, Immigration Judges have still held that they do not have jurisdiction to  
9 conduct bond hearings. So, at this point in San Diego getting a bond is a game of  
10 roulette based on which judge is assigned to your request.

12 25. Mr. Cakirgoz has come to believe that his detention will have no end.  
13 The only end seems to be that he finally breaks down and agrees to voluntary  
14 departure. There is no other logical explanation for what is currently going on.

15 26. Mr. Cakirgoz's continued detention without a tenable justification and  
16 without a demonstration that removal is significantly likely in the reasonably  
17 foreseeable future violates constitutional due process. *Zadvydas v. Davis*, 533 U.S.  
18 678 (2001); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020).

19 27. The government has failed to effectuate Mr. Cakirgoz's removal within a  
20 reasonable period of time or present any evidence that his removal is significantly  
21 likely to occur in the reasonably foreseeable future.

22 28. Mr. Cakirgoz's detention without a tenable justification violates his  
23 rights under the Due Process Clause of the Fifth Amendment.  
24

**EXHAUSTION OF REMEDIES**

1  
2 29. For habeas claims, exhaustion of administrative remedies is prudential,  
3 not jurisdictional. *Hernandez*, 872 F.3d at 988. A court may waive the prudential  
4 exhaustion requirement if “administrative remedies are inadequate or not  
5 efficacious, pursuit of administrative remedies would be a futile gesture, irreparable  
6 injury will result, or the administrative proceedings would be void.” *Id.* (*quoting*  
7 *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks  
8 omitted)). Petitioner asserts that exhaustion should be waived because  
9 administrative remedies are (1) futile and (2) his continued detention results in  
10 irreparable harm.  
11

12 30. Exhausting administrative remedies here is futile because Respondents  
13 contend Mr. Cakirgoz is subject to mandatory detention even in the face of  
14 *Maldonado, supra*. As such, any request for a hearing is a crap shoot. Moreover,  
15 immigration judges in this district claim to have no jurisdiction to conduct a custody  
16 redetermination hearing as to individuals procedurally situated like Mr. Cakirgoz.  
17 Indeed, in contravention to the INA and long-standing precedent and practice, the  
18 Board of Immigration Appeals and Attorney General have deemed no noncitizen  
19 eligible for bond before an immigration judge (with the exception of only  
20 noncitizens who entered the U.S. on a visa). As such, any attempts to exhaust  
21 administrative remedies would be entirely futile.  
22  
23  
24

1 31. Recently, under *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-  
2 SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the AUSA  
3 has asserted that bond hearings are now available. However, after the final decision  
4 in *Maldonado* was entered, DHS sent out a directive to Immigration Judges to ignore  
5 this case and continue to deny jurisdiction. IJ Begovich has already denied several  
6 bond requests claiming, once again, lack of jurisdiction.  
7

8 32. Today, January 8, 2026, counsel is informed that DHS has directed all  
9 attorneys to reserve appeal for all bond hearings. So, even when the district court  
10 directs the Immigration court to conduct a bond hearing and bars them from  
11 asserting lack of jurisdiction, DHS will appeal the bond, effectively shutting down  
12 any possibility for release on bond.

13 33. Moreover, no statutory exhaustion requirements apply to Petitioner's  
14 claim of unlawful custody in violation of his due process rights, and there are no  
15 administrative remedies that he needs to exhaust. *See Am.-Arab Anti-Discrimination*  
16 *Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile  
17 exercise because the agency does not have jurisdiction to review" constitutional  
18 claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000)  
19 (same).  
20

21 34. More importantly, every day that Petitioner remains detained causes  
22 him harm that cannot be repaired. His continued detention puts his mental health at  
23 greater risk, further warranting a finding of irreparable harm and the waiver of the  
24 prudential exhaustion requirement. Mr. Cakirgoz is diabetic and has struggled to

1 keep his blood sugar at manageable levels. He also suffers from wounds he incurred  
2 when he was attacked in Turkey. He cannot get the medical attention he requires  
3 while he is detained.

4 35. The Court must consider this in its irreparable harm analysis of the  
5 effects on Petitioner as his detention continues. *See De Paz Sales v. Barr*, No. 19-CV-  
6 07221-KAW, 2020 WL 353465, at \*4 (N.D. Cal. Jan. 21, 2020) (noting that the  
7 petitioner “continues to suffer significant psychological effects from his detention,  
8 including anxiety caused by the threats of other inmates and two suicide attempts,”  
9 in finding that petitioner would suffer irreparable harm warranting waiver of  
10 exhaustion requirement).

12 **FIRST CAUSE OF ACTION**  
13 **Fifth Amendment Due Process Violation**

14 36. Mr. Cakirgoz re-alleges and incorporates by reference, as if fully set  
15 forth herein, the allegations in paragraphs 1-35 above.

16 37. The Supreme Court has long recognized that the Fifth and Fourteenth  
17 Amendments refer to all “persons,” not just “citizens.” Aliens, even inadmissible or  
18 removable aliens, must be afforded due process protection. *See Yick Wo v. Hopkins*,  
19 118 U.S. 356, 369 (1886) (“The Fourteenth Amendment to the Constitution is not  
20 confined to the protection of citizens.”). As stated by the Court, the provisions of the  
21 Fourteenth Amendment “are universal in their application, to all persons within the  
22 territorial jurisdiction, without regard to any differences of race, of color, or of  
23 nationality” *Id.* (emphasis added).  
24

1 38. The Supreme Court has held that “even one whose presence in this  
2 country is unlawful, involuntary, or transitory is entitled to that constitutional  
3 protection [of the Due Process Clauses of the Fifth and Fourteenth Amendments]”  
4 *Mathews v. Diaz*, 426 U.S. 67, 75 n.7 (1976); see also *Plyler v. Doe*, 457 U.S. 202, 210  
5 (1982) (“Whatever his status under the immigration laws, an alien is surely a  
6 ‘person’ in any ordinary sense of that term.”); *Wong Wing v. United States*, 163 U.S.  
7 228, 238 (1896) (“Persons within the territory of the United States... even aliens...  
8 [may not]... be deprived of life, liberty or property without due process of law.”).

9  
10 39. As there is no final order of removal, and there doesn’t appear to be  
11 one in the reasonably foreseeable future, Mr. Cakirgoz may not be removed from the  
12 United States. His removal is not reasonably foreseeable, and his detention no  
13 longer serves any legitimate purpose under the INA.

14 40. In *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020), a judge in this  
15 District granted habeas relief in a substantially similar case, applying a six-factor  
16 balancing test first articulated in *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D.  
17 Wash. 2019), which considers: (1) total length of detention to date; (2) likely  
18 duration of future detention; (3) conditions of detention; (4) delays in the removal  
19 proceedings caused by the detainee; (5) delays in the removal proceedings caused  
20 by the government; and (6) the likelihood that the removal proceedings will result  
21 in a final order of removal. The court determined that prolonged detention, when  
22 considered alongside other due process concerns, can rise to the level of a  
23 constitutional violation warranting release. *Kydyrali*, 499 F. Supp. 3d at 773.  
24

1 41. Applying the Banda six-factor framework here supports granting Mr.  
2 Cakirgoz's petition.

3 42. The final factor—finality—strongly supports the grant of this habeas  
4 petition. Mr. Cakirgoz has been languishing in detention for over 13 months with no  
5 end in sight.

6 43. Only one delay is attributable to Mr. Cakirgoz and that was for only one  
7 month. The long delay to commence his removal proceedings was from the  
8 department repeatedly alleging he did not have a credible fear of persecution.  
9 However, an IJ finally made the determination that he did have a credible fear and  
10 his case deserved to be heard. That delay cannot be attributed to Mr. Cakirgoz.

11 44. Mr. Cakirgoz has now been detained by ICE for nearly 10 months since  
12 his arrival in the United States on March 29, 2025. This period is well beyond the  
13 presumptively reasonable six-month period set forth in *Zadvydas*, 533 U.S. at 701.  
14 Courts consistently find detention beyond this threshold triggers due process  
15 scrutiny. *See Kydyrali*, 499 F.Supp. 3d at 774–75.

16 45. Conditions of confinement also raise constitutional concerns as the  
17 medical treatment available at the Otay Mesa Detention Center is not adequate to  
18 address Mr. Cakirgoz's health conditions.

19 46. Mr. Cakirgoz poses no risk of flight and no danger to the community. He  
20 has no criminal history, has demonstrated compliance with all prior immigration  
21 requirements, and has community support in the United States. His wife is here and  
22 is waiting for his release.  
23  
24

1 47. Mr. Cakirgoz's continued detention without a tenable justification  
2 violates his Fifth Amendment right to due process.

3 **PRAYER FOR RELIEF**

4 Mr. Cakirgoz asks this Court to grant the following relief:  
5

- 6 1. Issue a Writ of Habeas Corpus ordering Respondents to release  
7 Mr. Cakirgoz from custody immediately;
- 8 2. Declare the continued detention of Mr. Cakirgoz without a tenable  
9 justification a violation of the Due Process Clause of the U.S. Constitution;
- 10 3. Order Respondents to show cause why Mr. Cakirgoz is being  
11 subjected to unlawful and unconstitutional detention; and
- 12 4. Grant any other relief that may be fit and proper.

13 Dated: January 8, 2026

Respectfully submitted,

14 By: /s/ Brian J. McGoldrick  
15 Brian J. McGoldrick, Esq.  
16 Attorney for Petitioner  
17  
18  
19  
20  
21  
22  
23  
24

**VERIFICATION PURSUANT TO 28 U.S.C. 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner’s attorney. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 8<sup>th</sup> day of January, 2026, in San Diego, California.

/s/ Brian J. McGoldrick  
Brian J. McGoldrick, Esq.  
Attorney for Petitioner