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9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 MARIO ENRIQUE BARROZ CELIS,

Petitioner,

12 v.

13 PAMELA BONDI, *et.al.*

14 Respondents.

Case No. 2:26-cv-00079-GMN-DJA

**Federal Respondents' Response to  
Petition for Writ of Habeas Corpus**

15  
16 Federal Respondent Pamela Bondi, U.S. Attorney General through undersigned  
17 counsel, hereby files her response to Mario Enrique Barroz Celis' Petition for Writ of  
18 Habeas Corpus. ECF No. 4. The petition should be denied for the reasons set forth in the  
19 following memorandum of points and authorities.

20 **I. Introduction**

21 Petitioner Barroz Celis is currently detained subject to a removal order by U.S.  
22 Immigration and Customs Enforcement ("ICE"), dated October 9, 2025, to Venezuela,  
23 pending removal proceedings from the United States. *See* Removal Order, attached as  
24 Exhibit A. The Immigration Judge (IJ) found that the Petitioner was inadmissible under the  
25 Immigration and Nationality Act (INA) 212(a)(6)(A)(i). *Id.* Petitioner is currently  
26 appealing this order before the Board of Immigration Appeals (BIA). Petitioner also  
27 withdrew his application for withholding removal under the Convention Against Torture  
28 (CAT) along with a deferral of removal under CAT. *Id.* The IJ granted a withholding of

1 removal under INA §241(b)(3). He is held in 1241 detention which pertains to the  
2 apprehension and detention of aliens ordered removed. His detention is governed by the  
3 discretionary provision of 8 U.S.C. § 1226(a). His removal is currently stayed pending his  
4 appeal before the BIA which Petitioner filed on November 10, 2025. This Court, however,  
5 lacks jurisdiction to review Petitioner's claims. Multiple provisions of the INA — including  
6 8 U.S.C. §§ 1252(g), 1252(b)(9), and 1226(e) — expressly preclude district-court jurisdiction  
7 over challenges that arise from the Government's decisions to commence removal  
8 proceedings, detain an alien pending those proceedings, or execute a removal order.

9 Even assuming jurisdiction could be found, Petitioner cannot prevail on the merits.  
10 His detention remains lawful, statutorily authorized, and consistent with due process. On  
11 September 30, 2025, Petitioner had a bond hearing. *See* Bond Order, attached as Exhibit B.  
12 The bond was denied after Petitioner testified that he was not admitted to the United  
13 States. *Id.* Subsequently the Court found it lacked jurisdiction and denied bond. *Id.*  
14 Petitioner is now appealing his administratively final removal order from the Immigration  
15 Judge to the BIA. Because of his pending appeal, his final removal order is currently  
16 stayed. These procedures satisfy the constitutional standards articulated in *Rodriguez Diaz v.*  
17 *Garland*, 53 F.4th 1189 (9th Cir. 2022), which held that detainees afforded individualized  
18 bond hearings with appellate review have received all process that is due. Because the  
19 governing statutes divest this Court of jurisdiction and, in any event, the record confirms  
20 that Petitioner's detention comports with both statute and due process, the United States  
21 respectfully requests that the Court dismiss the Petition for Writ of Habeas Corpus.

## 22 **II. Statement of Facts and Procedural History**

23 Petitioner, Barroz Celis, is a Venezuelan native who was neither admitted nor  
24 paroled in the United States. *See* Notice to Appear, attached as Exhibit C. He entered the  
25 United States illegally on or about May 21, 2024, at or near Ysleta, Texas without an  
26 inspection by the U.S. Immigration Officers. *See* I-213 and Criminal Record, attached as  
27 Exhibit D. This location was not designated as a port of entry by the Attorney General or  
28 the Secretary of the Department of Homeland Security. *Id.* On May 22, 2024, U.S. Border

1 Patrol issued the Petitioner an I-862 Notice to Appear, thus commencing removal  
2 proceedings. *Id.* On February 19, 2025, petitioner was convicted for Property  
3 Damage/Destruction with a 180-day sentence. *Id.* He was also convicted for Attempted  
4 Violation of a Protective Order on August 6, 2025, and he was transferred to ICE custody  
5 on August 8, 2025. *Id.* The Petitioner received a bond hearing on September 30, 2025, and  
6 the IJ denied bond pursuant to *Matter of Hurtado*, finding the petitioner was an applicant for  
7 admission, and the court lacked jurisdiction. Exhibit B. The petitioner waived appeal of that  
8 decision. On October 9, 2025, the IJ granted withhold of removal to Venezuela and denied  
9 Petitioner's asylum application. Exhibit A. Petitioner also withdrew his applications for  
10 withholding of removal under CAT and deferral of removal under CAT. *Id.* The respondent  
11 waived appeal at the hearing, and the DHS reserved appeal. The DHS has since declined to  
12 pursue the appeal. However, the Petitioner filed an appeal of the IJ's final order on or about  
13 November 10, 2025, despite previously waiving such right. Decision on the appeal to the  
14 BIA is still pending. Petitioner will not be removed while the appeal is pending.

15 He is held in 1241 detention since he has an administratively final removal order,  
16 though that order is currently stayed with the pending appeal that Petitioner filed on  
17 November 10, 2025, with the BIA. On January 16, 2026, Petitioner filed the instant bare  
18 bones petition in which he seeks the Court to release him from detention. ECF No. 4.

### 19 **III. Jurisdiction and Legal Standards**

#### 20 **A. Jurisdiction and Burden of Proof in Federal Habeas Petitions**

21 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited  
22 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon*  
23 *Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted).  
24 “[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789  
25 to the present day.” *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 S. Ct. 1959,  
26 1974 n. 20, 207 L. Ed. 2d 427 (2020). Title 28 U.S.C. § 2241 provides district courts with  
27 jurisdiction to hear federal habeas petitions. To warrant a grant of writ of habeas corpus, the  
28 burden is on the petitioner to prove that his or her custody is in violation of the Constitution,

1 laws, or treatises of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393  
2 F.3d 943, 969 n. 16 (9th Cir. 2004); *Snook v. Wood*, 89 F.3d 605, 609 (9th Cir. 1996).

3 **B. Detention and Removal Under 1226(a)**

4 Noncitizens are removable if they fall within any of several statutory classes of  
5 removable individuals. *Avilez v. Garland*, 69 F.4th 525, 529 (9th Cir. 2023) (citing 8 U.S.C. §  
6 1227(a)). Four statutes grant the Government authority to detain noncitizens who have been  
7 placed in removal proceedings: 8 U.S.C. §§ 1225(b), 1226(a), 1226(c), and 1231(a). *Id.* A  
8 noncitizen’s place within this statutory framework determines whether his detention is  
9 mandatory or discretionary, as well as the review process available to him if he wishes to  
10 contest the necessity of his detention. *Rubin v. United States Immigr. & Customs Enft Field Off.*  
11 *Dir.*, 2024 WL 3431914, at \*4 (W.D. Wash. June 28, 2024), report and recommendation  
12 adopted, 2024 WL 3431163 (W.D. Wash. 2024) (internal citations and quotations omitted).  
13 Federal immigration law, under Section 1226(a), empowers the Secretary of Homeland  
14 Security to arrest and detain a deportable noncitizen pending a removal decision, and it  
15 generally gives the Secretary the discretion either to detain the noncitizen or to release him  
16 on bond or parole. 8 U.S.C. § 1226(a); *Nielsen v. Preap*, 586 U.S. 392, 397 (2019). Under  
17 Section 1226(a), a noncitizen is entitled to a bond hearing at which an Immigration Judge  
18 considers whether the noncitizen is a flight risk or a danger to the community. *See Jennings v.*  
19 *Rodriguez*, 583 U.S. 281, 306, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018) (“Federal regulations  
20 provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.  
21 See 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1).”). An alien can also request custody  
22 redetermination (i.e., a bond hearing) by an immigration judge (“IJ”) at any time before a  
23 final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1),  
24 1003.19. If Petitioners receive an adverse ruling, they “may appeal the immigration judge’s  
25 decision to the Board of Immigration Appeals (BIA).” *Johnson v. Guzman Chavez*, 594 U.S.  
26 523, 527-28, 141 S. Ct. 2271, 210 L. Ed. 2d 656 (2021). In addition, following a showing of  
27 “change of circumstances,” Petitioner can seek an additional bond redetermination hearing.  
28 *Rodriguez Diaz*, 53 F.4th at 1197, 1209 (“Rodriguez Diaz has had the right to seek an

1 additional bond hearing if his circumstances materially change. See 8 C.F.R. § 1003.19(e).”)

2 **C. Review of the BIA**

3 The BIA is an appellate body within the Executive Office for Immigration Review  
 4 (“EOIR”). See 8 C.F.R. § 1003.1(d)(1). Members of the BIA possess delegated authority  
 5 from the Attorney General. 8 C.F.R. § 1003.1(a)(1). The BIA is “charged with the review  
 6 of those administrative adjudications under the [INA] that the Attorney General may by  
 7 regulation assign to it,” including IJ custody determinations. 8 C.F.R. §§ 1003.1(d)(1), 236.1;  
 8 1236.1. The BIA not only resolves particular disputes before it, but also “through precedent  
 9 decisions, [it] shall provide clear and uniform guidance to DHS, the immigration judges, and  
 10 the general public on the proper interpretation and administration of the [INA] and its  
 11 implementing regulations.” Id. § 1003.1(d)(1). “The decision of the [BIA] shall be final  
 12 except in those cases reviewed by the Attorney General.” 8 C.F.R. § 1003.1(d)(7).

13 **D. Jurisdiction Pursuant to 8 U.S.C. § 1226(e)**

14 Section 1226 prohibits federal courts from reviewing “discretionary judgment[s]” as  
 15 to detention determinations of noncitizens. The statute specifically provides that “[n]o court  
 16 may set aside any action or decision by the Attorney General under this section regarding  
 17 the detention or release of an alien or the grant, revocation, or denial of bond or parole.” 8  
 18 U.S.C. § 1226(e). The Ninth Circuit has interpreted section 1226(e) to mean “that an alien  
 19 may not use the federal courts to ‘challeng[e] a ‘discretionary judgment’ . . . made regarding  
 20 his detention or release.’” *Martinez v. Clark*, 36 F.4th 1219, 1227 (9th Cir. 2022) (quoting  
 21 *Jennings*, 138 S. Ct. at 841 (plurality opinion)). However, section 1226(e) “does not limit  
 22 habeas jurisdiction over ‘constitutional claims or questions of law.’” *Martinez*, 36 F.4th at  
 23 1227 (quoting *Patel v. Garland*, 142 S. Ct. 1614, 1626 (2022) (holding that federal courts have  
 24 habeas jurisdiction over “questions of law or constitutional questions” but not “an  
 25 immigration court’s determination that a noncitizen is a danger to the community”); see also  
 26 *Singh v. Holder*, 638 F.3d 1196, 1207 n.6. (9th Cir. 2011).

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1 **IV. Argument**

2 **a. Petitioner’s Claims Fail and Should be Dismissed for Lack of Jurisdiction**  
3 **Under Rule 12(b)(1) as Multiple Provisions of 8 U.S.C. §1252 Preclude the**  
4 **Court’s Review of Petitioner’s Claims**

5 **i. 8 U.S.C. § 1252(g)**

6 Section 1252(g) specifically deprives courts of jurisdiction, including habeas corpus  
7 jurisdiction to review “any cause or claim by or on behalf of an alien arising from the  
8 decision or action by the Attorney General to [1] commence proceedings, [2] adjudicate  
9 cases, or [3] execute removal orders against any alien under this chapter.” 8 U.S.C. §  
10 1252(g) (emphasis added). Section 1252(g) eliminates jurisdiction “[e]xcept as provided in  
11 this section and notwithstanding any other provision of law (statutory or nonstatutory),  
12 including section 2241 of title 28, United States Code, or any other habeas corpus provision,  
13 and sections 1361 and 1651 of such title.” Except as provided in § 1252, courts “cannot  
14 entertain challenges to the enumerated executive branch decisions or actions.” *E.F.L. v. Prim*,  
15 986 F.3d 959, 964–65 (7th Cir. 2021). Section 1252(g) also bars district courts from hearing  
16 challenges to the method by which the Secretary of Homeland Security chooses to  
17 commence removal proceedings, including the decision to detain an alien pending removal.  
18 *See Alvarez v. U.S. Immigr. & Customs Enft*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“By its  
19 plain terms, [§ 1252(g)] bars us from questioning ICE’s discretionary decisions to commence  
20 removal” and also to review “ICE’s decision to take [plaintiff] into custody and to detain  
21 him during removal proceedings”). Petitioner’s claims arise directly from his detention  
22 during ongoing removal. Proceedings pursuant to administratively final removal order. That  
23 detention flows from the Government’s decision to commence such proceedings. *See*  
24 *Valencia-Mejia v. United States*, No. CV 08-2943 CAS (PJWX), 2008 WL 4286979, at \*4  
25 (C.D. Cal. Sept. 15, 2008) (“The decision to detain plaintiff until his hearing before the  
26 Immigration Judge arose from this decision to commence proceedings.”); *Wang v. United*  
27 *States*, No. CV 10-0389 SVW (RCX), 2010 WL 11463156, at \*6 (C.D. Cal. Aug. 18, 2010);  
28 *Tazu v. Att’y Gen. United States*, 975 F.3d 292, 298–99 (3d Cir. 2020) (holding that 8 U.S.C. §  
1252(g) and (b)(9) deprive district court of jurisdiction to review action to execute removal

1 order).

2 As other courts have held, “[f]or the purposes of § 1252, the Attorney General  
3 commences proceedings against an alien when the alien is issued a Notice to Appear before  
4 an immigration court.” *Herrera-Correra v. United States*, No. CV 08-2941 DSF (JCX), 2008  
5 WL 11336833, at \*3 (C.D. Cal. Sept. 11, 2008). “The Attorney General may arrest the alien  
6 against whom proceedings are commenced and detain that individual until the conclusion of  
7 those proceedings.” *Id.* at \*3. “Thus, an alien’s detention throughout this process arises from  
8 the Attorney General’s decision to commence proceedings” and review of claims arising  
9 from such detention is barred under § 1252(g). *Id.* (citing *Sissoko v. Rocha*, 509 F.3d 947, 949  
10 (9th Cir. 2007)); *Wang*, 2010 WL 11463156, at \*6; 8 U.S.C. § 1252(g). Because Petitioner’s  
11 detention “arises from the Attorney General’s decision to commence proceedings,” review  
12 of such detention is barred by § 1252(g). Accordingly, this Court lacks jurisdiction and  
13 should dismiss the petition on that basis.

14 **ii. 8 U.S.C. § 1252(b)(9)**

15 Under § 1252(b)(9), “judicial review of all questions of law . . . including  
16 interpretation and application of statutory provisions . . . arising from any action taken . . .  
17 to remove an alien from the United States” is only proper before the appropriate court of  
18 appeals in the form of a petition for review of a final removal order. *See* 8 U.S.C. §  
19 1252(b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999)  
20 (“AADC”). Section 1252(b)(9) is an “unmistakable ‘zipper’ clause” that “channels judicial  
21 review of all [claims arising from deportation proceedings]” to a court of appeals in the first  
22 instance. *Id.*; *see Lopez v. Barr*, No. CV 20-1330 (JRT/BRT), 2021 WL 195523, at \*2 (D.  
23 Minn. Jan. 20, 2021) (citing *Nasrallah v. Barr*, 590 U.S. 573, 579–80 (2020)).

24 Moreover, § 1252(a)(5) provides that a petition for review is the exclusive means for  
25 judicial review of immigration proceedings:

26 Notwithstanding any other provision of law (statutory or nonstatutory), . . . a  
27 petition for review filed with an appropriate court of appeals in accordance  
28 with this section shall be the sole and exclusive means for judicial review of  
an order of removal entered or issued under any provision of this chapter,

1 except as provided in subsection (e) [concerning aliens not admitted to the  
2 United States].

3 8 U.S.C. § 1252(a)(5). “Taken together, § 1252(a)(5) and § 1252(b)(9) mean that any  
4 issue—whether legal or factual—arising from any removal-related activity can be reviewed  
5 only through the [petition-for-review] process.” *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th  
6 Cir. 2016) (emphasis in original); see *id.* at 1035 (“§§ 1252(a)(5) and [(b)(9)] channel review  
7 of all claims, including policies-and-practices challenges . . . whenever they ‘arise from’  
8 removal proceedings”); accord *Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir. 2009) (only  
9 when the action is “unrelated to any removal action or proceeding” is it within the district  
10 court’s jurisdiction); cf. *Xiao Ji Chen v. U.S. Dep’t of Justice*, 434 F.3d 144, 151 n.3 (2d Cir.  
11 2006) (a “primary effect” of the REAL ID Act is to “limit all aliens to one bite of the  
12 apple” (internal quotation marks omitted)).

13 Critically, “[§] 1252(b)(9) is a judicial channeling provision, not a claim-barring  
14 one.” *Aguilar v. U.S. Immigr. & Customs Enft Div. of Dep’t of Homeland Sec.*, 510 F.3d 1, 11  
15 (1st Cir. 2007). Indeed, 8 U.S.C. § 1252(a)(2)(D) provides that “[n]othing . . . in any other  
16 provision of this chapter . . . shall be construed as precluding review of constitutional  
17 claims or questions of law raised upon a petition for review filed with an appropriate court  
18 of appeals in accordance with this section.” See also *Ajlani v. Chertoff*, 545 F.3d 229, 235 (2d  
19 Cir. 2008) (“[J]urisdiction to review such claims is vested exclusively in the courts of  
20 appeals[.]”). The petition-for-review process before the court of appeals ensures that aliens  
21 have a proper forum for claims arising from their immigration proceedings and “receive  
22 their day in court.” *J.E.F.M.*, 837 F.3d at 1031–32 (internal quotations omitted); see also  
23 *Rosario v. Holder*, 627 F.3d 58, 61 (2d Cir. 2010) (“The REAL ID Act of 2005 amended the  
24 [INA] to obviate . . . Suspension Clause concerns” by permitting judicial review of  
25 “nondiscretionary” BIA determinations and “all constitutional claims or questions of  
26 law.”).

27 In evaluating the reach of subsections (a)(5) and (b)(9), the Second Circuit explained  
28 that jurisdiction turns on the substance of the relief sought. *Delgado v. Quarantillo*, 643 F.3d

1 52, 55 (2d Cir. 2011). Those provisions divest district courts of jurisdiction to review both  
2 direct and indirect challenges to removal orders, including decisions to detain for purposes  
3 of removal or for proceedings. *See Jennings*, 583 U.S. at 294–95 (section 1252(b)(9) includes  
4 challenges to the “decision to detain [an alien] in the first place or to seek removal[.]”).

5 Here, because Petitioner challenges the Government’s decision to detain him  
6 pending removal, his claim fall squarely within § 1252(b)(9)’s jurisdictional bar, and is thus  
7 an “action taken . . . to remove [them] from the United States.” *See* 8 U.S.C. § 1252(b)(9);  
8 *see also, e.g., Jennings*, 583 U.S. at 294–95; *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir.  
9 2020) (finding that 8 U.S.C. § 1226(e) did not bar review in that case because the petitioner  
10 did not challenge “his initial detention”); *Saadulloev v. Garland*, No. 3:23-CV-00106, 2024  
11 WL 1076106, at \*3 (W.D. Pa. Mar. 12, 2024) (recognizing that there is no judicial review  
12 of the threshold detention decision, which flows from the government’s decision to  
13 “commence proceedings”). Accordingly, this Court lacks subject-matter jurisdiction and  
14 should dismiss the petition.

15 **b. The Court Has No Jurisdiction Under 1226(e) Absent a Due Process**  
16 **Violation and Petitioner Has Been Afforded the Due Process to Which He is**  
17 **Entitled**

18 Section 1226(e) bars judicial review of “any discretionary judgment regarding the  
19 application of this section,” including decisions “to det[ain] or release an alien” pending  
20 removal. *Martinez*, 36 F.4th at 1227 (quoting *Jennings*, 138 S. Ct. at 841). Although §  
21 1226(e) does not preclude review of bona fide constitutional or legal questions (*Patel*, 596  
22 U.S. at 331), Petitioner raises none. His only contention — that his detention is  
23 unconstitutional despite receiving a final removal order, and appealing such order to the  
24 BIA — is foreclosed by *Rodriguez Diaz*, 53 F.4th 1189. If Petitioner receives an unfavorable  
25 ruling from the BIA, his next step will be to appeal before the Ninth Circuit Court of  
26 Appeals, if he chooses to do so.

27 In determining whether there has been a violation of a detainee’s constitutional due  
28 process, the Ninth Circuit’s decision in *Rodriguez Diaz v. Garland* provides dispositive  
guidance on the due process requirements for immigration bond proceedings for detainees

1 held pursuant to section 1226(a). 53 F.4th 1189. In *Rodriguez Diaz*, the court addressed  
2 whether petitioners who had received bond hearings before an immigration judge, with the  
3 opportunity to appeal adverse decisions to the Board of Immigration Appeals, had been  
4 afforded constitutionally adequate process. *Id.* at 1194-95. The court concluded that they  
5 had, holding that “so long as the government follows reasonable, individualized  
6 determinations to ensure that the alien is properly in removal proceedings, due process  
7 does not require more bond hearings even after a prolonged period.” *Id.* at 1218.

8 The *Rodriguez Diaz* court emphasized that due process does not guarantee any  
9 particular outcome but rather ensures access to adequate procedures for contesting  
10 detention. *Id.* at 1213. The court noted that petitioners had a right to and received bond  
11 hearings before an immigration judge and possessed “the right to appeal to the BIA.” *Id.* at  
12 1209. This procedural framework, the court held, satisfied constitutional requirements  
13 because it provided a neutral decisionmaker, an opportunity to be heard, and appellate  
14 review of adverse determinations. *Id.* at 1210.

15 The instant matter is procedurally indistinguishable from *Rodriguez Diaz*. Petitioner  
16 requested a bond hearing, and one was given to him. Subsequently, Petitioner appealed the  
17 IJ’s order denying him a bond hearing before the BIA. Such appeal is still pending. If  
18 Petitioner chooses to do so, he can appeal the BIA order to the Ninth Circuit Court of  
19 Appeals. This procedural posture mirrors precisely the circumstances in *Rodriguez Diaz*,  
20 where the Ninth Circuit held that such procedures satisfy constitutional due process  
21 requirements.

22 Under *Diaz*, the relevant inquiry is not whether Petitioner prevailed in his bond  
23 proceedings, but whether he received constitutionally adequate process to challenge his  
24 detention. 53 F.4th at 1194. The record establishes that he did. Petitioner appeared before  
25 an IJ, who independently evaluated the evidence and applicable legal standards. He was  
26 permitted to present testimony and documentary evidence, and he was afforded the  
27 opportunity to challenge the government’s basis for detention. Upon receiving an  
28 unfavorable decision, he pursued appellate review before the BIA, which is currently

1 pending. Subsequently, if he chooses to do so he can file an appeal of the BIA decision (if  
2 unfavorable to him) before the Ninth Circuit Court of appeals, thereby exhausting the  
3 administrative procedures available to him.

4 The Constitution guarantees procedural safeguards, not substantive outcomes. *See*  
5 *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (establishing framework for evaluating  
6 procedural due process claims). *Diaz* makes clear that when an immigration detainee  
7 receives a bond hearing before an immigration judge with the opportunity for BIA review,  
8 “1226(a)’s procedures satisfy due process both facially and as applied.” *Id.* at 1213.  
9 Petitioner has received exactly this process.

10 Moreover, *Rodriguez Diaz* forecloses any argument that continued detention  
11 following a bond hearing and appeal constitutes a constitutional violation. The Ninth  
12 Circuit explicitly rejected the notion that due process entitles immigration detainees to  
13 release on bond; rather, due process entitles them only to adequate procedures for  
14 contesting detention. *Id.* at 1209. Petitioner received those procedures. That the IJ and BIA  
15 ultimately determined that he is subject to removal to Venezuela and that his continued  
16 detention was warranted does not transform an adequate process into an inadequate one.  
17 Because Petitioner has received precisely this process, his due process rights have been  
18 vindicated, and habeas relief on this ground is unwarranted.

19 **c. Petitioner’s Claims of Overlong Detention Are Not Supported by the Record**

20 In *Diaz v. Garland*, the Ninth Circuit held that an 18-month period of detention  
21 during which *Diaz* had two bond hearings and sought an appeal through the BIA did not  
22 violate due process, as the petitioners had received constitutionally adequate procedures to  
23 contest their detention. *Rodriguez Diaz*, 53 F.4th at 1213. By comparison, Petitioner’s less  
24 than two and a half months in detention since the filing of his pending appeal before the  
25 BIA falls well short of the duration found constitutionally permissible in *Diaz*, further  
26 undermining any claim that his continued detention violates due process.

27 / / /

28 / / /

1 **V. Conclusion**

2 For the foregoing reasons, this Court lacks jurisdiction to entertain Petitioner's  
3 claims under 8 U.S.C. §§ 1252(g), 1252(b)(9), and 1226(e). Even if jurisdiction were proper,  
4 Petitioner's detention is lawful, discretionary, and consistent with due process, as he is held  
5 in 1241 detention pursuant to an administratively final order of removal which is currently  
6 stayed pending his appeal before the BIA. Accordingly, the United States respectfully  
7 requests that the Court dismiss the Petition for Writ of Habeas Corpus in its entirety.

8 Respectfully submitted this 30th day of January 2026.

9  
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Deputy Attorney General of the United States  
11 SIGAL CHATTAH  
First Assistant United States Attorney

12 /s/ Virginia T. Tomova  
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