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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

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| <p>SABER SAFINEJAD, <i>Petitioner,</i> v. CHRISTOPHER LAROSE, Facility senior warden at the Otay Mesa Detention Facility, GREGORY J. ARCHAMBEAULT, Director of the U.S. Immigration and Customs Enforcement San Diego Field Office, TODD LYONS, acting Director of U.S. Immigration and Customs Enforcement, KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, and PAM BONDI, U.S. Attorney General.</p> | <p>Civil Case NO.: 26-CV-531-JES-AHG Traverse in Support of Petition for Writ of Habeas Corpus</p> |
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**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C.
§2241**

INTRODUCTION

The issue in this case is whether Saber Safinejad's detention of over 11 months violates his due process rights. Mr. Safinejad has been detained pending his immigration proceedings and his Board of Immigration Appeals ("BIA") appeal since February 20, 2025. Mr. Safinejad is asking this Court to grant his petition and order the immigration judge to conduct a bond hearing and make an individualized finding as to whether he is a danger or a flight risk, such that his prolonged detention is warranted. This Court should "join[] the majority of courts across the country in concluding that Mr. Safinejad's unreasonably prolonged detention under 8 U.S.C. §1225(b) without an individualized bond hearing violates due process." *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) (Battaglia J.).

I. Mr. Safinejad's Detention Violates Due Process

Respondents argue that Mr. Safinejad's habeas petition should be denied because his claim is barred under 28 U.S.C. §1252(g). Dkt. No. 4 at 3-5. Respondents further argue that because Mr. Safinejad is detained pursuant to 8 U.S.C. §1225(b)(2), his detention is statutorily mandated and does not violate due process. Dkt. No. 4 at 5-9.

However, most courts have ruled in favor of the Petitioner in similar cases and found that prolonged mandatory detention under §1225(b) without a bond hearing violates an individual's right to due process. *See Abdul-Samed v. Warden of*

Golden State Annex Det. Facility, No. 25-cv-98-SAB-HC, 2025 WL 2099343, at *6 (E.D. Cal. July 25, 2025) (“Although the Ninth Circuit has yet to take a position on whether due process requires a bond hearing for noncitizens detained under 8 U.S.C. § 1225(b) ‘essentially all district courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, will—at some point—violate the right to due process.’”) (*citing* *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 2019 WL 5968089, at *6 (W.D. Wash. May 23, 2019)); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) (“[T]he Court joins the majority of courts across the country in concluding that an unreasonably prolonged detention under 8 U.S.C. § 1225(b) without an individualized bond hearing violates due process.”); *Sibomana v. LaRose*, No. 22-CV-933-LL-NLS, 2023 WL 3028093, at *4 (S.D. Cal. Apr. 20, 2023) (finding that courts are typically wary of continued custody without a bond hearing when detention extends beyond one year); *Raeva v. Mayorkas*, No. 25-CV-3175-JO-KSC (S.D. Cal. Nov. 24, 2025); *Ramos Villanueva v. LaRose*, No. 25-CV-3679-CAB-SBC (S.D. Cal. Jan. 26, 2026). This Court should agree with the majority position that a petitioner detained under Section 1225(b) may assert a due process challenge to prolonged mandatory detention without a bond hearing.

This Court should likewise agree with those district courts that interpret *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), as

circumscribing an arriving alien's due process rights to admission, rather than limiting that person's ability to challenge detention. *See A.L. v. Oddo*, 761 F. Supp. 3d 822, 825 (W.D. Pa. 2025) ("Nowhere in [*Thuraissigiam*] did the Supreme Court suggest that arriving aliens being held under § 1225(b) may be held indefinitely and unreasonably with no due process implications, nor that such aliens have no due process rights whatsoever."); *Hernandez v. Wofford*, No. 25-cv-986-KES-CDB (HC), 2025 WL 2420390, at *3 (E.D. Cal. Aug. 21, 2025) ("Although the Supreme Court has described Congress's power over the 'policies and rules for exclusion of aliens' as 'plenary,' and held that this court must generally 'defer to Executive and Legislative Branch decision making in that area,' it is well-established that the Due Process Clause stands as a significant constraint on the manner in which the political branches may exercise their plenary authority'—through detention or otherwise.") (citations omitted); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1171–72 (W.D. Wash. 2023) ("The holding in *Thuraissigiam* does not foreclose Plaintiffs' due process claims which seek to vindicate a right to a bond hearing with certain procedural protections."); *Gao v. LaRose*, No. 25-CV-2084-RSH-SBC, 2025025 WL 2770633, at *3 (S.D. Cal. Sept. 26, 2025); *Sadeqi v. LaRose*, 25-CV-2587-RSH-BJW (S.D. Cal. Nov. 12, 2025).

Mr. Safinejad has no criminal record. Given that he has been detained for more than 11 months, Mr. Safinejad's detention without a bond hearing violates due process.

For the foregoing reasons, this Court should grant Mr. Safinejad's habeas petition and find that he is entitled to a prompt and individualized bond hearing at which the government must justify his continued detention by a showing of clear and convincing evidence that he would likely flee or pose a danger to the community if released. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), *abrogated on other grounds by Jennings v. Rodriguez*, 583 U.S. 281 (2018) (explaining that "the substantial liberty interest at stake" warranted placing the burden on the government to "prove by clear and convincing evidence that an alien is a flight risk or a danger to the community to justify denial of bond.")

Respectfully Submitted

Cassandra Lopez

Litigation Director

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Pro bono counsel for Mr. Safinejad

Dates: February 2, 2026