

Kara Hartzler
Bar No. 293751
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101-5030
Telephone: (619) 234-8467
Facsimile: (619) 687-2666
Kara_hartzler@fd.org
Attorneys for Mr. Sorvanov

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

ARTUR SORVANOV,
Petitioner,

v.

KRISTI NOEM, Secretary of the
Department of Homeland Security,
PAMELA JO BONDI, Attorney General,
TODD M. LYONS, Acting Director,
Immigration and Customs Enforcement,
JESUS ROCHA, Acting Field Office
Director, San Diego Field Office,
CHRISTOPHER LAROSE, Warden at
Otay Mesa Detention Center,
Respondents.

Civil Case No.: 26-cv-1339-JES-BJW

**Amended¹ Petition for a
Writ of Habeas Corpus**

¹ Federal Rule of Civil Procedure 15(a)(1)(A) permits a party to “amend its pleading once as a matter of course no later than 21 days after serving it.” Fed. R. Civ. Pro. 15(a)(1)(A) (punctuation altered). It is less than 21 days since service. Mr. Sorvanov therefore files this amended petition as of right.

1 INTRODUCTION

2 Artur Sorvanov is a Russian political dissident who was repeatedly tortured
3 for protesting and speaking out against the war in Ukraine. He has been detained
4 pending his immigration proceedings for seven months. This Court should “join[]
5 the majority of courts across the country in concluding that [his] unreasonably
6 prolonged detention under 8 U.S.C. § 1225(b) without an individualized bond
7 hearing violates due process.” *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D.
8 Cal. 2020) (Battaglia, J.). It should do so because Mr. Sorvanov satisfies the six-
9 factor test set forth in *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1118 (W.D.
10 Wash. 2019).

11 Additionally, because of newly emerging evidence that the neutrality of
12 Otay Mesa’s immigration judges (“IJ”) has been compromised, and some IJs and
13 the Department of Homeland Security (“DHS”) have implemented strategies to
14 detain bond-worthy habeas petitioners, a bond hearing before a randomly selected
15 IJ will no longer reliably satisfy due process. This Court should therefore consider
16 the alternative forms of relief, including that: 1) the IJ shall consider alternative
17 conditions of release and Petitioner’s ability to pay bond; and 2) Respondents
18 shall make a complete record of the bond hearing available to Petitioner’s
19 counsel.

20 STATEMENT OF FACTS

21 Artur Sorvanov was born in Russia and has been a longtime political
22 dissident. Exhibit A, Declaration of Artur Sorvanov, at ¶ 1. For years he attended
23 protests and secret meetings and was arrested, beaten, and tortured as a result of
24 his opposition. *Id.* at ¶ 1; *see also* Exhibit B, Credible Fear Statement.

25 In 2025, Mr. Sorvanov fled Russia and came to Mexico. Exh. A at ¶ 2. On
26 August 14, 2025, he went to the port of entry to the United States and requested
27 asylum. *Id.* at ¶ 3. He was taken into custody and transferred to Otay Mesa

28 //

1 Detention Center, where he passed his credible fear interview and was put into
2 removal proceedings. *Id.* at ¶ 3.

3 Mr. Sorvanov has had three hearings with three different immigration
4 judges. *Id.* at ¶ 4. One of these hearings was cancelled. *Id.* at ¶ 4. He has not
5 requested any continuances in his case. *Id.* at ¶ 4.

6 Mr. Sorvanov's final merits hearing is currently scheduled for April 23,
7 2026, with a fourth judge. *Id.* at ¶ 5. If he loses his case, he plans to appeal to the
8 BIA and the Ninth Circuit. *Id.* at ¶ 5.

9 Mr. Sorvanov has been detained for over seven months. *Id.* at ¶ 6. If he
10 loses his case, he will likely be detained for several more years. *Id.* at ¶ 6.

11 As a result of the torture Mr. Sorvanov experienced in Russia, he suffers
12 from PTSD and is in excruciating pain due to severe headaches. *Id.* at ¶ 7. He also
13 has anxiety and insomnia. *Id.* at ¶ 7.

14 The week after Mr. Sorvanov arrived in detention, he contracted COVID
15 and was put into isolation for 11 days. *Id.* at ¶ 8. During this time, he did not
16 receive adequate medical care and developed a serious complication affecting his
17 left ear. *Id.* at ¶ 8. He suffered hearing loss that has not been recovered. *Id.* at ¶ 8.

18 LEGAL BACKGROUND

19 20 **I. The Fifth Amendment's Due Process Clause prohibits prolonged** 21 **immigration detention without a bond hearing.**

22 This habeas petition presents a question about whether and when the Fifth
23 Amendment's Due Process Clause countermands the government's statutory
24 authority to detain immigrants without bond hearings. Mr. Sorvanov is detained
25 under one such statute, 8 U.S.C. § 1225(b). "Section 1225 applies to 'applicants
26 for admission'—noncitizens who 'arrive[] in the United States,' or are 'present' in
27 the United States but have 'not been admitted.'" *Banda v. McAleenan*, 385 F.
28 Supp. 3d 1099, 1111 (W.D. Wash. 2019). It "applies to, among others,

1 noncitizens initially determined to be inadmissible because of . . . lack of valid
2 documentation.” *Id.* That includes persons who, like Mr. Sorvanov, present
3 themselves for inspection at the border and—rather than producing admission
4 documents—make asylum and other fear-based claims. *See id.* at 1109–11
5 (describing a similar procedural history and finding that petitioner was detained
6 under § 1225(b)). Such immigrants are detained under § 1225(b) not only during
7 their initial proceedings, but also when they appeal to the BIA. *See id.* at 1111
8 (reaching same conclusion for immigrant with pending BIA appeal).

9 This statutory scheme has left courts to grapple with the limits (if any) of
10 that detention power: Does this statute permit the government to detain
11 immigrants indefinitely, without ever having to prove at a bond hearing that they
12 pose a risk of danger or flight? Three Supreme Court cases are potentially relevant
13 to answering that question.

14 First, in *Zadvydas v. Davis*, the Supreme Court indicated that indefinite
15 immigration detention raises serious due process concerns. 533 U.S. 678 (2001).
16 *Zadvydas* involved a statute authorizing the government to detain immigrants
17 after they are ordered removed. *Id.* at 683. For immigrants who cannot be
18 removed, that statute had the potential to subject them to years, decades, or a
19 lifetime in custody. *See id.* at 690. The Supreme Court held that if the statute
20 “permit[ed] indefinite detention of an alien[,] [it] would raise a serious
21 constitutional problem,” because

22 [t]he Fifth Amendment's Due Process Clause forbids the Government
23 to ‘depriv[e]’ any ‘person ... of ... liberty ... without due process of
24 law.’ Freedom from imprisonment—from government custody,
25 detention, or other forms of physical restraint—lies at the heart of the
26 liberty that Clause protects. *See Foucha v. Louisiana*, 504 U.S. 71, 80
27 (1992). And this Court has said that government detention violates
28 that Clause unless the detention is ordered in a *criminal* proceeding
with adequate procedural protections, *see United States v. Salerno*,
481 U.S. 739, 746 (1987), or, in certain special and ‘narrow’
nonpunitive ‘circumstances,’ *Foucha, supra*, at 80, where a special

1 justification, such as harm-threatening mental illness, outweighs the
2 ‘individual’s constitutionally protected interest in avoiding physical
3 restraint.’ *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997).

4 *Id.* Ultimately, however, the Court declined to decide whether a statute permitting
5 indefinite detention would violate the Due Process Clause. Instead, the Court
6 employed the constitutional avoidance canon to read implicit limits into the
7 statute, requiring release after detention became sufficiently prolonged. *Id.* at 699.

8 Following *Zadvydas*, the Ninth Circuit applied similar reasoning to
9 § 1225(b). *Rodriguez v. Robbins*, 804 F.3d 1060, 1087–89 (9th Cir. 2015).
10 Employing the constitutional avoidance canon, the Ninth Circuit held that
11 § 1225(b) implicitly entitled detained immigrants to bond hearings every six
12 months. *Id.*

13 The Supreme Court overruled that precedent in *Jennings v. Rodriguez*,
14 holding that the statute does not entitle detainees to bond hearings or otherwise
15 impose “any limit on the length of detention.” 583 U.S. 281, 297 (2018). But
16 though *Jennings* held that § 1225(b) imposes no statutory limit on the length of
17 detention, it reserved the question of whether prolonged, mandatory detention
18 without bond hearings violates due process. *Id.* at 312.

19 Finally, the Supreme Court held in *Demore v. Kim* that at least some
20 statutes mandating detention during immigration proceedings do not
21 automatically violate the Due Process Clause. 538 U.S. 510, 513 (2003). *Demore*
22 addressed 8 U.S.C. § 1226(c), which mandates detention without a bond hearing
23 for persons with certain criminal convictions. *Id.* The Court upheld § 1226(c) in a
24 5-4 opinion based on (1) the government interests justifying the detention of
25 immigrants with certain, aggravated criminal convictions, and (2) the relative
26 brevity of detention in most cases, with the vast majority taking only about five
27 months. *Id.* at 517–31. Justice Kennedy supplied a deciding vote. His concurrence
28 left open the possibility that individual immigrants could be “entitled to an

1 individualized determination as to his risk of flight and dangerousness if the
2 continued detention became unreasonable or unjustified.” *Id.* at 532–33.

3 “In the wake of *Jennings*,” *Zadvydas*, and *Demore*, “district courts have
4 grappled with how to address due process challenges to prolonged mandatory
5 detention under § 1225(b).” *Banda*, 385 F. Supp. 3d at 1116. But after a full
6 evaluation, “[n]early all district courts that have considered the issue agree that
7 prolonged mandatory detention pending removal proceedings, without a bond
8 hearing, will—at some point—violate the right to due process.” *Id.* (cleaned up)
9 (collecting cases).

10 These Courts have relied on the due process concerns recognized in
11 *Zadvydas*. See, e.g., *Kydyrali*, 499 F. Supp. 3d at 771; *Banda*, 385 F. Supp. 3d at
12 1113–17; *Abdul Kadir v. Larose*, No. 25CV1045-LL-MMP, 2025 WL 2932654,
13 at *3 (S.D. Cal. Oct. 15, 2025). As the Ninth Circuit put it in *Jennings*’ wake,
14 those considerations raise “grave doubts that any statute that allows for arbitrary
15 prolonged detention without any process is constitutional or that those who
16 founded our democracy precisely to protect against the government’s arbitrary
17 deprivation of liberty would have thought so.” *Rodriguez v. Marin*, 909 F.3d 252,
18 256 (9th Cir. 2018).

19 Neither *Jennings* nor *Demore* undermines that conclusion. *Jennings* held
20 only that the statute itself did not impose any limits on detention. It “did not
21 foreclose as-applied constitutional challenges to detention under” mandatory-
22 detention statutes. *Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 209
23 (3d Cir. 2020). And *Demore* held only that conviction-based mandatory detention
24 during immigration proceedings does not necessarily violate due process,
25 particularly when the detention has an expected duration of about five months. *Id.*
26 at 208–11. But many persons detained under § 1225(b)—like Mr. Sorvanov—do
27 not have criminal convictions. And as Justice Kennedy’s concurrence made clear,
28

1 *Demore* does not prevent immigrants from arguing that sufficiently prolonged
2 detention violates due process in their individual cases. *See id.*²

3 Thus, this Court should hold that sufficiently prolonged detention violates
4 the Due Process Clause, as most courts have. *See, e.g., Gao v. LaRose*, No. 25-
5 CV-2084-RSH-SBC, 2025 WL 2770633, at *3 (S.D. Cal. Sept. 26, 2025); *Abdul*
6 *Kadir v. Larose*, No. 25CV1045-LL-MMP, 2025 WL 2932654, at *4 (S.D. Cal.
7 Oct. 15, 2025); *Cong v. Noem*, No. 25-CV-3730-GPC-DEB, 2026 WL 76566, at
8 *3 (S.D. Cal. Jan. 9, 2026); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal.
9 2020) (Battaglia, J.); *Mardian v. Mayorkas*, 25-cv-3467-JLS; *Raeva v. Mayorkas*,
10 25-cv-3175-JO; *Abdul-Samed v. Warden of Golden State Annex Det. Facility*, No.
11 25-cv-98-SAB-HC, 2025 WL 2099343, at *6 (E.D. Cal. July 25, 2025);
12 *Hernandez v. Wofford*, No. 25-cv-986-KES-CDB (HC), 2025 WL 2420390, at *3
13 (E.D. Cal. Aug. 21, 2025); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1171–72 (W.D.
14 Wash. 2023).

15 **II. Courts have reached different conclusions about when immigration**
16 **detention becomes indefinitely prolonged, but Mr. Sorvanov would**
17 **prevail under any standard, including the *Banda* factors.**

18 Though courts agree that due process mandates a bond hearing when
19 detention grows unreasonably prolonged, they disagree about how to assess
20 whether a particular migrant’s detention has reached that point. *Sanchez-Rivera v.*
21 *Matuszewski*, No. 22-CV-1357-MMA (JLB), 2023 WL 139801, at *5–6 (S.D.
22 Cal. Jan. 9, 2023) (Anello, J.) (surveying the various approaches). In a recent
23 case, this Court found it “most appropriate to apply the *Banda* test to Petitioner’s
24

25 ² The Supreme Court’s later decision in *Dep’t of Homeland Sec. v. Thuraissigiam*,
26 591 U.S. 103 (2020), is also inapposite, because it addressed only immigrants’ due
27 process rights in deportation proceedings—i.e., the process due when noncitizens
28 seek to stay in the country instead of being removed. *See Lopez-Arevelo v. Ripa*,
No. EP-25-CV-337-KC, 2025 WL 2691828, at *7–9 (W.D. Tex. Sept. 22, 2025). It
does not purport to hold that immigrants have no constitutional right to due process
before the government holds them indefinitely in immigration detention. *Id.*

1 detention here under § 1225(b), as other courts within this district have done in
2 the past.” *Sandesh v. Noem*, 26-cv-846-JES-DDL, Dkt 13 at 5 (Mar. 5, 2026 S.D.
3 Cal). The *Banda* factors include:

- 4 (1) the total length of detention to date;
- 5 (2) the likely duration of future detention;
- 6 (3) the conditions of detention;
- 7 (4) delays in the removal proceedings caused by the detainee;
- 8 (5) delays in the removal proceedings cause by the government; and
- 9 (6) the likelihood that the removal proceedings will result in a final order
10 of removal.

11 *Banda*, 385 F. Supp. 3d at 1106. Applying these factors here shows that
12 Mr. Sorvanov’s detention has become prolonged.

13 *First*, in regards to the total length of detention to date, Mr. Sorvanov has
14 now been detained for seven months. “Courts have found detention over seven
15 months without a bond hearing weighs toward a finding that it is unreasonable.”
16 *Amado v. United States Dep’t of Just.*, No. 25-CV2687-LL(DDL), 2025 WL
17 3079052, at *5 (S.D. Cal. Nov. 4, 2025) (citing cases).

18 *Second*, the likely duration of future detention is long. If Mr. Sorvanov
19 loses his case, he plans to appeal to the BIA and the Ninth Circuit, which will
20 prolong his case for years. Exh. A at ¶ 5.

21 *Third*, the conditions of his detention have been exceptionally harsh. The
22 week after he arrived in detention, Mr. Sorvanov contracted COVID and was put
23 into isolation for 11 days. *Id.* at ¶ 8. During this time, he did not receive adequate
24 medical care and developed a serious complication affecting his left ear. *Id.* As a
25 result, he suffered hearing loss and has not yet recovered his hearing in one ear.
26 *Id.* What’s more, as a result of the torture Mr. Sorvanov experienced in Russia, he
27 suffers from PTSD and is in excruciating pain due to severe headaches; he also
28 has anxiety and insomnia. *Id.* at ¶ 7.

1 *Fourth* and *fifth*, Mr. Sorvanov has not caused any of the delays in his
2 removal proceedings. Rather, he has had three different hearings with three
3 different judges, and one of his hearings was cancelled. *Id.* at ¶ 4. He currently
4 has a final merits hearing scheduled with a fourth judge. *Id.* at ¶ 5. Thus, the
5 immigration court—rather than Mr. Sorvanov—is responsible for any delays that
6 have occurred in this case.

7 *Sixth*, regarding the likelihood that the removal proceedings will result in a
8 final order of removal, Mr. Sorvanov has a strong chance of winning his case,
9 either before the IJ or on appeal. Mr. Sorvanov is a longtime political dissident
10 who has been arrested, beaten, and tortured by the Russian government. *Id.* at ¶ 5.

11
12
13
14
15
16
17
18 Thus, he has a strong case for asylum and is likely to be granted relief.

19 Accordingly, under the *Banda* factors, Mr. Sorvanov is entitled to release or
20 a bond hearing.

21 **III. Because immigration judges' neutrality has been compromised, this**
22 **Court must order outright release, or at least additional safeguards.**

23 In a perfect world, this Court could remedy the due process violation by
24 ordering a bond hearing before a neutral immigration judge ("IJ"), allowing the IJ
25 to determine whether Mr. Sorvanov posed a risk of danger or flight.

26 Unfortunately, attacks on IJ independence under the current administration have
27 severely compromised IJs' neutrality. As a result, there is a serious risk that an IJ
28

1 will order Mr. Sorvanov’s continued detention even if he poses no danger or flight
2 risk. Several data points support that conclusion.

3 Most importantly, reports are streaming in from this district and elsewhere
4 that court-ordered “bond hearings [are], effectively, stacked against detainees
5 from the start.” Kyle Cheney, *How ICE Defies Judges’ Orders to Release*
6 *Detainees, Step by Step*, Politico (Feb. 10, 2026),
7 [https://www.politico.com/news/2026/02/10/ice-immigration-detention-court-](https://www.politico.com/news/2026/02/10/ice-immigration-detention-court-orders-00771727)
8 [orders-00771727](https://www.politico.com/news/2026/02/10/ice-immigration-detention-court-orders-00771727).

9 Former ICE Counsel Jorge Artieda attests to seeing “a seismic shift in bond
10 hearing outcomes for individuals who had been granted federal habeas relief and
11 ordered § 1226(a) bond hearings . . . in the Eastern District of Virginia.” Exhibit
12 B, Declaration of Jorge Artieda, at 2. In a declaration filed in *Briceno Solano v.*
13 *Mason*, No. 26-CV-00045, 2026 WL 311624 (S.D.W. Va. Feb. 4, 2026),
14 Mr. Artieda reported that the pattern of granting bond in appropriate cases
15 “abruptly and uniformly ceased” in early January, in a way that “suggests
16 coordinated institutional direction.” *Id.* IJs there now rely on a “remarkably
17 narrow and predictable set of rationales to deny bond—rationales that appear to
18 bear little relationship to genuine individualized risk assessment and that would
19 not have been deemed sufficient to justify denial just weeks earlier.” *Id.* at 3. In
20 Mr. Artieda’s professional opinion, the IJs’ rationales “do not appear to be
21 grounded in legitimate risk assessment” but are “pretexts designed to ensure
22 denial of bond regardless of the individual facts of each case.” *Id.* at 4.

23 Mr. Artieda further attests that to having “communicated with numerous
24 immigration attorneys practicing all over the United States who handle detention
25 cases.” *Id.* at 5. “These conversations have confirmed that the pattern [he] ha[s]
26 observed is widespread and consistent.” *Id.* Based on these conversations,
27 Mr. Artieda believes that these bond denials are part of a “coordinated
28

1 institutional effort.” *Id.* at 6. That coordinated effort supports outright release or,
2 at a minimum, additional scrutiny from this Court.

3 A recently retired immigration judge with 27 years of experience on the
4 bench and 10 years of experience as an INS attorney reports similar observations.
5 See Declaration of Lawrence O. Burman, Exhibit C. Judge Burman recounts that
6 in his years of conducting bond hearings, “[i]t was rare for a bond to be denied
7 solely based on flight risk.” *Id.* at ¶ 11. Rather, “a higher bond amount was
8 imposed to ensure the individual’s appearance at future hearings.” *Id.* Judge
9 Burman also notes that “[a]lthough immigration judges are expected to act as
10 neutral adjudicators,” he has “noticed increasing concern among members of the
11 bench about institutional intimidation and the perception that decisions
12 unfavorable to the government could negatively affect judicial tenure.” *Id.* at ¶ 20.
13 Specifically, he has observed a “notable rise in bond denials and adverse case
14 outcomes,” which “undermines due process and erodes confidence in the
15 Immigration Court system.” *Id.* at ¶ 21.

16 This trend is also occurring in San Diego. In a recently filed declaration,
17 local attorney Edward Perez attests that he has similar concerns about some
18 immigration judges at Otay Mesa. In his experience, many Otay Mesa IJs are
19 resistant to implementing habeas orders requiring bond hearings. *Elsayed v.*
20 *Noem*, Case No. 26-cv-368, Doc. 5-2 at ¶ 7 (S.D. Cal. Feb. 9, 2026). These IJs
21 have begun denying bond on the ground that court hearings are coming up, and
22 release would disrupt the hearing schedule. *Id.* Of course, that logic could justify
23 any asylum seeker’s detention, and it has nothing to do with danger or flight. *Id.*
24 Furthermore, the Department of Homeland Security (“DHS”) has started
25 appealing bonds to take advantage of the automatic stay. *Id.* Both of these
26 strategies ensure that even those who pose no risk of danger or flight will stay in
27 detention. *Id.*

1 Judges have begun to take note of this trend and order that individuals be
2 released from custody, rather than granted a bond hearing. In *Said v. Noem*, a
3 court ordered a bond hearing for a habeas petitioner, only to learn that “[t]he IJ
4 denied Petitioner the opportunity to present testimony, declined to consider the
5 sworn, documentary evidence submitted by Petitioner, and based his decision on
6 an uncorroborated, unauthenticated claim by a government official that Petitioner
7 failed to share his location for the ISAP.” No. 3:25-CV-938-MOC, 2026 WL
8 295651, at *5 (W.D.N.C. Feb. 4, 2026). The original habeas Order “presupposed
9 that this hearing would be conducted in accordance with Petitioner’s due process
10 rights,” the court wrote. “It was not.” *Id.*

11 In *Picado v. Hyde*, a district judge ordered outright release after two
12 deficient bond hearings. No. 26-CV-065-JJM-PAS, 2026 WL 352691, at *7
13 (D.R.I. Feb. 9, 2026). The IJ in the second hearing had deemed the immigrant a
14 danger to the community based on an uncorroborated police report accusing him
15 of driving 90 mph in a 55-mph zone. *Id.*

16 These trends are consistent with sustained attacks on IJs’ independence
17 under this administration. Several examples illustrate the point.

18 *First*, the Trump administration has eliminated 128 IJs insufficiently
19 aligned with the administration’s priorities, illustrating to the remaining IJs the
20 cost of resistance. *See* Woo-Sun Lim, *Former judge highlights legal failures in*
21 *U.S. worker detentions*, The Dong-A Ilbo (Sept. 20, 2025),
22 <https://www.donga.com/en/article/all/20250920/5859412/1>.

23 These IJs are under no illusions about why they were let go. Former
24 Baltimore IJ Emmett Soper stated: “I think the current administration of the
25 immigration courts does not fundamentally see the immigration courts as neutral
26 decision-makers. I think that they see the immigration courts as a tool for this
27 administration to advance its policy objectives.” Geoff Bennett & Ali Schmitz,
28 *Ousted Immigration Judge Describes Deepening Court Backlog*, PBS NewsHour

(Nov. 12, 2025), <https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog>. Former San Francisco IJ Jeremiah Johnson similarly understood “the hint that they should be hearing cases a certain way, deciding cases a certain way. Move faster. Less due process, essentially.” Hilda Gutierrez, Michael Bott & Son Vo, *'An all-out attack on immigration court.'* *SF immigration judges speak out after firings*, NBC Bay Area (Nov. 25, 2025), <https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/>. Former San Francisco IJ George Pappas was even more direct: “We were told to facilitate deportation... Due process is dead in immigration courts.” Isabela Dias, *“Fired for No Reason”: Former Immigration Judges Speak Out Against Trump’s Assault on the Courts*, Mother Jones (Oct. 9, 2025), <https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/>.

This has had the predictable effect on those who remain. According to former San Francisco IJ Elizabeth Young, “I’ve talked to many of [the judges still serving], and they’re like, ‘When I go into court, I am concerned about applying the law, but I’m also concerned that I should deny more, because if I don’t, then I’ll get fired.’” Marco Poggio, *Judges See an Immigration Court Guttled from Inside*, Law360 (Oct. 31, 2025), <https://www.law360.com/articles/2381003/judges-see-an-immigration-court-guttled-from-inside>. Meanwhile, Department of Justice recruitment materials seek “deportation judges” to fill the empty IJ slots, Coral Murphy Marcos, *US Justice Department Recruiting Legal Experts to Serve as ‘Deportation’ Judges*, Guardian, <https://www.theguardian.com/us-news/2025/nov/21/us-justice-department-ad-deportation-judges>, inviting candidates to “bring the hammer down on criminal illegal aliens” and “defend your communities, your culture, your very way of life.” dhsgov, Instagram (Nov. 21, 2025), <https://www.instagram.com/p/DRVt8DmCQKD/?hl=en>.

1 *Second*, a parallel purge occurred at the BIA, which was reduced from 28
2 members to 15 members. All Biden appointees on the BIA were fired. Am. Imm.
3 Council, *BIA Decision Strips Immigration Judges of Bond Authority, All but*
4 *Guaranteeing Mandatory Detention for Undocumented Immigrants* (Sept. 12,
5 2025), [https://www.americanimmigrationcouncil.org/blog/bia-ruling-](https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/)
6 [immigration-judges-bond-mandatory-detention-undocumented-immigrants/](https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/). The
7 statistical impact is stark. As of January 22, 2026, the reconstituted BIA has
8 issued 71 published decisions. Exec. Off. for Immigr. Rev., *Volume 29*, U.S. Dep't
9 of Just. (Jan. 21, 2025), <https://www.justice.gov/eoir/volume-29>. Of those, 69
10 decisions (97%) favored the administration. By contrast, during the entire four-
11 year span of the prior administration, the BIA issued 76 published decisions.
12 Exec. Off. for Immigr. Rev., *Volume 28*, U.S. Dep't of Just. (June 13, 2025),
13 <https://www.justice.gov/eoir/volume-28>. (First decision, *Matter of DIKHTYAR*,
14 28 I&N Dec. 214 (BIA 2021), issued 01/22/2021). Of those, 46 decisions (60%)
15 favored the administration. The transformation from 60% to 97% pro-government
16 outcomes—achieved through wholesale termination of one administration's
17 appointees —speaks for itself.

18 *Third*, beyond personnel changes, EOIR's new acting director, Sirce E.
19 Owen, has issued “a string of sharply worded policy memos” encouraging IJs to
20 side with the government over immigrants and minimize due process. E. Tammy
21 Kim, *Inside Donald Trump's Attack on Immigration Courts*, New Yorker,
22 <https://www.newyorker.com/inside-donald-trumps-attack-on-immigration-court>.
23 The policy directives include: a memorandum dated June 27, 2025 warning
24 judges not to demonstrate “bias directed against DHS” or to be “adjudicatory
25 outliers,” at risk of “close examination and potential action,” Exec. Off. for
26 Immigr. Rev., Policy Memorandum 25-33, Neutrality and Impartiality in
27 Immigration Court Proceedings (June 27, 2025), [https://iptp-](https://iptp-production.s3.amazonaws.com/media/documents/2025.06.27_EOIR_-_PM_25-)
28 [production.s3.amazonaws.com/media/documents/2025.06.27_EOIR_-_PM_25-](https://iptp-production.s3.amazonaws.com/media/documents/2025.06.27_EOIR_-_PM_25-)

1 33.pdf; a memorandum encouraging judges to deny asylum applications without
2 full evidentiary hearings, styled as efficiency guidance but functioning as a
3 directive to reduce due process protections, Exec. Off. for Immigr. Rev., Policy
4 Memorandum 25-28, Pretermission of Legally Insufficient Application for
5 Asylum (Apr. 11, 2025), [https://www.justice.gov/eoir/media/1396411/dl?inline](https://www.justice.gov/eoir/media/1396411/dl?inline;);
6 and memoranda restricting immigration judges' ability to grant continuances,
7 Exec. Off. for Immigr. Rev., Policy Memorandum 25-27, Cancellation of
8 Director's Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13
9 (Mar. 21, 2025), <https://www.justice.gov/eoir/media/1394086/dl>, and
10 administrative closure, Exec. Off. for Immigr. Rev., Policy Memorandum 25-29,
11 Cancellation of Director's Memorandum 22-03 (Apr. 18, 2025),
12 <https://www.justice.gov/eoir/media/1397161/dl?inline>.

13 *Fourth*, EOIR personnel have at times directed IJs to ignore federal court
14 orders related to bond hearings. On January 13, 2026, in the wake of *Maldonado*
15 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D.
16 Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-
17 BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025), Chief Immigration
18 Judge Teresa L. Riley sent all IJs the following instructions:

19 Please provide the following guidance to all immigration judges
20 forthwith: *Maldonado Bautista* is not a nationwide injunction and does
21 not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore
22 *Yajure Hurtado* remains binding precedent on agency adjudications.
23 For clarification, declaratory judgments differ from injunctions in that
24 the former clarifies parties' legal rights and relationships without
25 ordering specific action, while the latter is a court order compelling a
26 party to do or stop doing a specific act. A declaratory judgment is not
an equitable remedy and does not, by itself, have the effect of
compelling specific action by a party. Thank you for your attention to
this matter.

27 Am. Immigr. Laws. Ass'n, Practice Alert: EOIR Issues Nationwide Guidance
28 on *Maldonado Bautista*, AILA Doc. No. 26011404 (Jan. 16, 2026),

1 [https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-](https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista)
2 [on-maldonado-bautista](https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista). A few days later, Judge Sykes issued a scathing order,
3 calling out “Respondents’ deliberate choice to continue defying the final
4 judgment entered in *Bautista*.” *Palomera Baltazar v. Janecka*, No. 5:26-cv-
5 00019-SSS-BFM at *2-3 (C.D. Cal. Jan. 16, 2026).

6 IJs’ resistance to granting bond therefore accords with the larger
7 movement to eliminate or silence IJs who side with immigrants, while
8 bringing those that remain into line with the administration’s priorities.

9 The “equitable and flexible nature of habeas relief” affords district
10 courts significant discretion over the appropriate remedies for violations of
11 law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir.
12 2020); *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995) (“[H]abeas corpus
13 is, at its core, an equitable remedy”). This Court should order a remedy that
14 fully addresses the statutory and constitutional violations in this case and is
15 efficient to administer. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (the
16 habeas statute “does not limit the relief that may be granted to discharge of the
17 applicant from physical custody. Its mandate is broad with respect to the relief
18 that may be granted”).

19 **CLAIM AND PRAYER FOR RELIEF**

20 For the reasons just given, the Fifth Amendment Due Process Clause
21 prohibits the government from continuing to detain Petitioner.

22 Accordingly, Petitioner respectfully requests that this Court:

23 **1. Order Respondents to immediately release Petitioner from custody.**

24 “In recent months, courts across the country have ordered the release of
25 detainees in similar situations.” *Moctezuma v. Henkey*, No. 1:25-CV-
26 00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the
27 government’s repeated use of unlawful detention policies across the
28 country, causing petitioners to “sit in jail waiting for a judicial decision,”

1 the court would order immediate release instead of causing additional delay
2 through a bond hearing) (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104
3 (E.D. Cal. 2025); *J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765,
4 at *10 (E.D.N.Y. Sept. 29, 2025); *Rosado v. Figueroa*, No. 25-cv-2157,
5 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *Pinchi v. Noem*, No.
6 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025). *Santiago*
7 *v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex.
8 Oct. 2, 2025) (“Without a legitimate interest in her detention, immediate
9 release appropriately remedies Respondents’ violation of [Petitioner’s] due
10 process rights through her continued detention.”). Order, ECF No. 14 at 19,
11 *Miri v. Bondi*, No. 5:26-CV-00698-MEMF (C.D. Cal. March 5, 2026)
12 (“Miri’s prompt release is the remedy that will best return Miri to the status
13 quo and restore his position as it was prior to the detention that Miri
14 contends was in violation of his constitutional and statutory protections.”).

15 **2. In the alternative, order a prompt § 1226(a) bond hearing, with**
16 **safeguards and oversight provided by this Court.** *See* Order, ECF
17 No. 13, *Sandesh v. LaRose*, No. 3:26-CV-00846-JES (S.D. Cal.
18 March 5, 2026). Specifically, the Court should order:

- 19 1. Respondents provide Petitioner with a hearing and
20 individualized bond determination within **ten days** of its order.

21 *Id.*

- 22 (a) At that hearing, the government shall bear the burden of
23 establishing by clear and convincing evidence that
24 Petitioner poses a danger or flight risk, while further
25 specifying that concerns about interrupting court
26 schedules is not a ground to deny bond. *Id.*

- 1 (b) The IJ shall consider alternative conditions of release and
2 Petitioner's ability to pay bond if he or she determines
3 bond is appropriate. *Id.*
4 (c) Respondents shall make a complete record of the bond
5 hearing available to Petitioner and his counsel. *Id.*
6 2. Respondents are ordered to file a Notice of Compliance within
7 **five days** of providing Petitioner with the bond hearing,
8 including apprising the Court of the results of the hearing. *Id.*
9 3. Prohibit ICE from invoking the automatic stay provisions
10 under 8 C.F.R. § 1003.19(i)(2) to defeat the IJ's bond
11 determination.
12 3. **Order all other relief that the Court deems just and proper.**

13
14 Respectfully submitted,

15 Dated: March 9, 2026

s/ Kara Hartzler

Kara Hartzler

Federal Defenders of San Diego, Inc.

Attorneys for Mr. Sorvanov

Email: kara_hartzler@fd.org