

Michael R. Hirman, Esq.
State Bar No. 228469
Law Office of Michael R. Hirman
7777 Alvarado Rd., Suite 404
La Mesa, CA 91942
Tel: (619) 238-9700
Fax: (619) 238-9701
Email: mhirman@hotmail.com

Attorney for Petitioner,
CAYAR, BURAK 

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CAYAR, BURAK,

Petitioner,

v.

Case No.: 3:26-cv-01431-RBM-DDL

WARDEN, OTAY MESA
DETENTION CENTER, et al.,

Respondents.

PETITIONER'S REPLY TO GOVERNMENT'S RETURN

I. INTRODUCTION

Respondents' Return fails to meaningfully address the central constitutional violation at issue in this case. Rather than confronting the serious due process concerns arising from Petitioner's prolonged detention, the government relies on a generalized statutory argument regarding whether Petitioner's custody falls under 8 U.S.C. § 1225(b) or § 1226(a).

Respondents expressly concede that controlling precedent within this District rejects their position and governs the outcome of this case. Their reliance on a statutory classification argument does nothing to resolve the constitutional question presented.

Most critically, Respondents do not, and cannot, dispute the dispositive issue before this Court: Petitioner has been subjected to prolonged civil detention without ever receiving a constitutionally adequate bond hearing. This failure of process lies at the heart of this case and independently warrants habeas relief.

At this stage, there is no meaningful legal dispute before the Court—only the question of the appropriate remedy.

II. THE GOVERNMENT'S STATUTORY ARGUMENT DOES NOT DEFEAT PETITIONER'S CLAIM

Respondents contend that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b). But Respondents also expressly acknowledge that courts in the Southern District of California have consistently rejected this position and that controlling precedent in this District governs the outcome here. That concession is dispositive and fatally undermines Respondents' reliance on a statutory classification argument. Indeed, Respondents go further than merely advancing a statutory argument—they affirmatively acknowledge that binding precedent in this District would require relief under materially indistinguishable facts.

In any event, even assuming that § 1225(b) applies, the constitutional inquiry remains unchanged. The Due Process Clause imposes independent limits on civil immigration detention that cannot be avoided by attaching a statutory label to Petitioner's custody.

As the Supreme Court made clear in *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), the statute does not resolve the constitutional question. Rather, this Court must determine whether the length and circumstances of Petitioner's detention have rendered that detention unconstitutional. Respondents' Return fails to meaningfully engage that question and therefore provides no basis to deny habeas relief. Where the Government concedes that materially indistinguishable district precedent compels relief, its statutory argument cannot defeat the petition.

III. PETITIONER'S DETENTION IS PROLONGED AND UNCONSTITUTIONAL

Petitioner entered the United States without inspection on or about July 2, 2024, near Tecate, California. He was taken into ICE custody on November 30, 2025, while working and has remained detained at the Otay Mesa Detention Center since that date.

As of the filing of this Reply, Petitioner has been detained for over three and a half months, and his individual hearing is scheduled for April 9, 2026. However, the relevant inquiry is not limited to the time already elapsed, but instead focuses on the total foreseeable duration of detention. Prolonged detention is assessed based on both the length of time already served and the additional period of confinement that is reasonably anticipated. Here, with an individual hearing scheduled for April 9, 2026—and no guarantee of an immediate decision or prompt conclusion of proceedings—Petitioner faces continued detention for a significantly longer and indeterminate period.

This timeline establishes that Petitioner's detention is not only ongoing, but has already become prolonged and will continue for several additional months at a minimum. Courts in this District routinely recognize that detention of this nature and duration—particularly in the absence of meaningful procedural safeguards—raises serious constitutional concerns.

IV. PETITIONER HAS NEVER RECEIVED A CONSTITUTIONALLY ADEQUATE BOND HEARING

Respondents do not dispute that Petitioner requested a bond hearing on December 12, 2025, and that on December 19, 2025, the Immigration Judge denied jurisdiction. As a result, Petitioner has never received any bond hearing on the merits.

The complete absence of any merits-based bond hearing is constitutionally indefensible. Under binding Ninth Circuit precedent, including *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), due process requires a meaningful bond hearing at which the government bears the burden of justifying continued detention by clear and convincing evidence.

None of these fundamental procedural safeguards have been provided here. Respondents' Return fails entirely to justify why Petitioner has been denied any opportunity to obtain a bond determination, and offers no basis for continuing his detention without the process that the Constitution requires.

V. THE GOVERNMENT FAILS TO JUSTIFY CONTINUED DETENTION

Respondents do not argue—and cannot demonstrate—that Petitioner poses a danger to the community or presents a flight risk. Their failure to make any such showing is telling and underscores the absence of any individualized basis for continued detention.

To the contrary, the record affirmatively establishes that Petitioner has no criminal history in the United States or abroad, has consistently complied with all immigration requirements, and lived and worked

productively prior to his detention. These undisputed facts weigh heavily against any justification for continued custody.

Respondents' failure to provide any individualized justification is itself a violation of due process. In the absence of a showing that detention is necessary to prevent danger or flight, Petitioner's continued confinement is arbitrary, excessive, and constitutionally impermissible.

VI. ADDITIONAL DUE PROCESS CONCERNS

Petitioner's detention is further compounded by additional constitutional concerns, including:

1. Language barriers, which have limited Petitioner's ability to understand and meaningfully participate in proceedings;
2. Coercive detention conditions, which exacerbate the punitive nature of confinement; and
3. Inadequate medical care and psychological harm, underscoring that what is nominally civil detention has become functionally punitive.

These factors reinforce the conclusion that continued detention violates the Fifth Amendment.

VII. HABEAS RELIEF IS APPROPRIATE AND NECESSARY

Respondents attempt to reduce this case to a statutory classification dispute. That framing is incorrect. This case concerns prolonged civil detention without constitutionally adequate process.

Where detention becomes prolonged, the Constitution requires meaningful procedural safeguards. Those safeguards are entirely absent here. Because no bond hearing has ever been provided; no individualized determination has been made; and detention continues without justification, judicial intervention is required.

VIII. RELIEF REQUESTED

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order Petitioner's immediate release; or
3. In the alternative, order a prompt constitutionally adequate bond hearing, at which the Government bears the burden of proof by clear and convincing evidence.

Dated: March 19, 2026.

Respectfully submitted,

By: /s/ Michael R. Hirman

Michael R. Hirman, Esq.

State Bar No. 228469

Counsel for Petitioner

Law Office of Michael R. Hirman

7777 Alvarado Rd., Suite 404
La Mesa, CA 91942
Tel: (619) 238-9700
Fax: (619) 238-9701
Email: mhirman@hotmail.com

PROOF OF ELECTRONIC SERVICE

I am employed in the County of San Diego, State of California. I am over the age of eighteen and not a party to the within action. My business address is 7777 Alvarado Rd., Suite 404, La Mesa, CA 91942.

On the date indicated below, I served by ELECTRONIC SERVICE via the Court's CM/ECF system the foregoing document described as: EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 in the case of Burak Cayar v. Warden, Otay Mesa Detention Center, et al. Case No. 3:26- cv-01431-RBM-DDL on all interested parties through the electronic filing system of the United States District Court for the Southern District of California, which sends notification of such filing to the Office of the United States Attorney for the Southern District of California.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on March 19, 2026, at La Mesa, California.

By: /s/ Michael R. Hirman

Michael R. Hirman, Esq.

State Bar No. 228469

Attorney for Petitioner, Burak Cayar

SERVICE LIST

Warden, Otay Mesa Detention Center
7488 Calzada de la Fuente, San Diego, CA, 92154.

Field Office Director, U.S. Immigration and Customs Enforcement
San Diego Field Office, 880 Front Street, Suite 2240, San Diego, CA, 92101.

Secretary, U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE, Washington, DC 20528.

Attorney General, U.S. Department of Justice
950 Pennsylvania Avenue NW, Washington, DC 20530.