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

GERARDO GARCIA RAMOS,

Petitioner,

vs.

KRISTI NOEM, Secretary, U.S.
Department of Homeland Security
C/O Office of the General Counsel
2707 Martin Luther King Jr. Ave, Se
Washington, Dc 20528-0485;

PAMELA BONDI, U.S. Attorney
General 950 Pennsylvania Avenue NW
Washington DC 20530

TODD LYONS, Acting Director of U.S.
Immigration and Customs Enforcement.
500 12th St SW
Washington, DC 20536

CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center

Respondents.

Case No.: '26CV1652 RBM BJW

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
ADMINISTRATIVE PROCEDURE
ACT RELIEF**

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INTRODUCTION

1. Petitioner Gerardo Garcia Ramos seeks limited habeas relief under 28 U.S.C. § 2241 challenging the continued fact of his civil immigration detention, which has now persisted for more than twelve months despite repeated custody filings and without meaningful progress toward removal.

2. This Petition does not seek review of an Immigration Judge’s discretionary bond determination, does not request a new bond hearing, and does not ask this Court to impose procedural requirements rejected by the Ninth Circuit in *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022).

3. Instead, Petitioner challenges whether the Department of Homeland Security retains constitutional authority to continue detention at all, where custody has become effectively indefinite due to unresolved bond proceedings, a pending bond appeal, and the agency’s failure to prosecute removal proceedings with reasonable diligence.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).

5. This Court has jurisdiction to entertain this habeas Petition under 28 U.S.C.

1 § 2241 because Petitioner is in custody within this District, and habeas is the
2 traditional and appropriate vehicle to challenge the fact of civil detention as
3 unconstitutional. See *Preiser v. Rodriguez*, 411 U.S. 475, 484–85 (1973);
4 *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).
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7 6. Venue is proper in this District under 28 U.S.C. § 1391(e) and because
8 Petitioner is detained at Otay Mesa Detention Center in San Diego County. In
9 habeas, the proper respondent is the immediate custodian and the petition is
10 properly filed in the district of confinement. See *Rumsfeld v. Padilla*, 542 U.S. 426,
11 434–35 (2004).
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13 **REQUIREMENTS OF 28 U.S.C. § 2243**

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15 7. The Court must grant the petition for writ of habeas corpus or issue an order
16 to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not
17 entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court
18 must require respondents to file a return “within *three days* unless for good cause
19 additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
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22 8. Courts have long recognized the significance of the habeas statute in
23 protecting individuals from unlawful detention. The Great Writ has been referred
24 to as “perhaps the most important writ known to the constitutional law of England,
25 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
26 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).
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1 **PARTIES**

2 9. Petitioner, Gerardo Garcia Ramos, who is currently detained at the Otay
3 Mesa Detention Center in San Diego, California.

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5 10. Respondent Kristi Noem is the Secretary of the Department of Homeland
6 Security. As Secretary, she oversees the federal agency responsible for
7 implementing and enforcing the INA, including the detention of noncitizens. She
8 is sued in her official capacity.

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11 11. Respondent Todd Lyons is Acting Director of ICE, he oversees ICE
12 detention decisions and post-order custody reviews for detainees in this region,
13 including Petitioner. He is sued in his official capacity.

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15 12. Respondent Pamela Bondi is the Attorney General of the United States and
16 head of the U.S. Department of Justice. In that capacity, she oversees EOIR and
17 the immigration court system the agency administers. She is ultimately responsible
18 for the agency's operation. She is sued in her official capacity.

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21 13. Respondent Christopher J. Larose, in his official capacity as Warden of
22 Otay Mesa Detention Center, he is responsible for the custody of immigration
23 detainees there, including Petitioner. He is sued in his official capacity.

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25 **STATEMENT OF FACTS**

26 14. Petitioner has been detained since March 2025 under 8 U.S.C. § 1226(a).
27 EOIR records confirm that Petitioner has pursued every available custody
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1 mechanism. A bond appeal has remained pending since August 31, 2025. Most
2 recently, a bond redetermination request filed on March 11, 2026 remains
3 undecided.
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5 15. No further custody hearings are scheduled. Removal proceedings have not
6 advanced toward resolution. As a result, Petitioner's detention continues not
7 because adjudication is ongoing, but because custody filings remain unresolved.
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9 LEGAL STANDARD

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11 16. Civil immigration detention is lawful only so long as it bears a reasonable
12 relation to its asserted regulatory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690
13 (2001). Due process forbids civil detention that becomes punitive or untethered
14 from its purpose. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). The constitutional
15 question is practical and fact-specific: whether detention has become unreasonable
16 in length and justification given the posture of proceedings and the government's
17 diligence. See *Demore v. Kim*, 538 U.S. 510, 527 (2003) (upholding mandatory
18 detention in part because it is for a "brief period" in the "vast majority of cases");
19 *Jennings v. Rodriguez*, 583 U.S. 281, 315 (2018) (leaving open as-applied
20 constitutional challenges to prolonged detention).
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22 17. This inquiry is independent of whether statutory custody procedures
23 nominally exist. Even where immigration detention is authorized by statute, it may
24 become unconstitutional "as applied" when it is unreasonably prolonged. See
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1 *Jennings*, 583 U.S. at 315; *Rodriguez v. Robbins*, 715 F.3d 1127, 1138 (9th Cir.
2 2013), rev'd on other grounds, 583 U.S. 281 (2018). Courts evaluating as-applied
3 due process challenges to prolonged detention commonly consider: (i) the length of
4 detention; (ii) the reasons for delay (including whether the government has acted
5 with reasonable diligence); and (iii) whether proceedings are likely to conclude in
6 the reasonably foreseeable future. See, e.g., *Diouf v. Napolitano*, 634 F.3d 1081,
7 1086–92 (9th Cir. 2011) (due process concerns increase as detention becomes
8 prolonged); *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 950–52 (9th
9 Cir. 2008) (addressing prolonged immigration detention pending resolution of
10 removal proceedings).

11 18. Courts in the Southern District of California have likewise recognized that
12 prolonged detention at Otay Mesa under § 1226(a) may present serious as-applied
13 due process concerns and is appropriately raised via § 2241. See, e.g., *Phan v.*
14 *Warden of the Otay Mesa Detention Facility*, No. 3:25-cv-02369 (S.D. Cal.);
15 *McSweeney v. Warden of the Otay Mesa Detention Facility*, No. 3:25-cv-02488
16 (S.D. Cal.); *Grosso v. Warden, Otay Mesa Detention Center*, No. 3:26-cv-00396
17 (S.D. Cal.) (orders addressing § 2241 challenges to continued detention at Otay
18 Mesa). See also *Zadvydas*, 533 U.S. at 690 (civil detention must bear a reasonable
19 relation to its purpose).

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DISTINGUISHING RODRIGUEZ DIAZ

1 21. *Rodriguez Diaz* held that the Due Process Clause does not require
2 additional procedural protections (such as a six-month bond hearing with burden
3 shifting) as a categorical matter for detainees held under 8 U.S.C. § 1226(a). 53
4 F.4th 1189, 1196–1204 (9th Cir. 2022). It did not foreclose as-applied constitutional
5 challenges to the *continued fact* of detention, nor did it decide whether detention
6 becomes unconstitutional when it is prolonged by the government’s failure to
7 resolve custody proceedings or move removal proceedings forward with reasonable
8 diligence. See *Jennings*, 583 U.S. at 315 (as-applied challenges remain available).

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12 22. Petitioner does not seek a new bond hearing or review of an Immigration
13 Judge’s discretionary custody decision. He challenges only whether DHS may
14 continue to detain him where detention has become effectively indefinite due to
15 unresolved custody proceedings and lack of reasonably foreseeable progress.
16 Habeas relief may include an order of release where continued civil detention
17 violates due process. See *Zadvydas*, 533 U.S. at 699–700.

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21 **PRAYER FOR RELIEF**

22 Petitioner respectfully requests that the Court grant the writ of habeas corpus
23 and order his release under reasonable conditions of supervision. Petitioner does
24 not request that this Court direct the Immigration Court to conduct any additional
25 bond proceedings.
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27 Respectfully submitted,
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1 March 16, 2026.
2

3 /s/ Marcelo Gondim
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11 *Attorney for Petitioner*

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

13 I represent Petitioner, Gerardo Garcia Ramos, and submit this verification on
14 his behalf. I hereby verify that the factual statements made in the foregoing Petition
15 for Writ of Habeas Corpus are true and correct to the best of my knowledge.

16 March 16, 2026.

17 /s/ Marcelo Gondim
18 _____
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