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6
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8 FAYISA GAMACHU DANGIA

9
10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**
13

14 FAYISA GAMACHU DANGIA
15 (inadvertently named in immigration
16 proceedings as Feayisae Dangia
17 Gaminachuu),

18 Petitioner,

19 v.

20 SIXTO MARRERO, Warden, Imperial
21 Regional Detention Facility;
22 DANIEL A. BRIGHTMAN, Field Office
23 Director, San Diego Field Office,
24 Immigration and Customs Enforcement;
25 TODD M. LYONS, Acting Director,
26 Immigration and Customs Enforcement;
27 KRISTI NOEM, Secretary of Homeland
28 Security;
PAMELA JO BONDI, Attorney General;
in their official capacities,

Respondents.

Case No.: '26CV1810 RBM MSB

**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS**

1. Petitioner petitions this Court for a writ of habeas corpus under 28 U.S.C. §
2241 to remedy Respondents detaining him unlawfully, and states as follows:

INTRODUCTION

2. Petitioner is a noncitizen who seeks immediate release from custody because Respondents have held him at the Imperial Regional Detention Facility for over 16 months—a prolonged and constitutionally unreasonable period—without any individualized custody hearing.

3. Petitioner challenges only his present physical confinement and seeks the traditional habeas remedy of release (or, at a minimum, a prompt individualized bond hearing). Petitioner seeks that relief under the federal habeas statute, 28 U.S.C. § 2241, which is the proper vehicle for challenging civil immigration detention. *See Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024) (noting that a noncitizen’s challenge to his present confinement falls within the “core of habeas”).

4. His continued detention without a hearing as to flight risk and danger to the community violates the Due Process Clause of the Fifth Amendment. *See Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886) (Fifth and Fourteenth Amendments protect “all persons”); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (due process applies even to those whose presence is “unlawful, involuntary, or transitory”).

5. Petitioner requests that this Court issue a writ of habeas corpus commanding respondents to release him from custody and enjoin respondents from re-detaining him without notice to his counsel and a predeprivation hearing before a neutral decision-maker at which respondents must prove material changes in circumstances justify re-detention.

CUSTODY

6. Petitioner Fayisa Gamachu Dangia is currently in Respondents’ legal and physical custody. 28 U.S.C. § 2241(c)(3). When Petitioner was initially taken into custody immigration officials incorrectly recorded his name as “Feayisae Dangia Gaminachuu,” and proceedings in immigration court have proceeded under this incorrect name.

7. Respondents are detaining petitioner at Imperial Regional Detention Facility in Calexico, California. Petitioner is under respondents and their agents direct control.

JURISDICTION

8. This Court has jurisdiction to consider this habeas petition complaint under 28 U.S.C. § 1331; 28 U.S.C. § 2241; the Due Process Clause of the Fifth Amendment (U.S. Const. amend. V) and the Suspension Clause (U.S. Const. art. I, sec. 9, cl. 2). Jurisdiction is not limited by a petitioner's nationality, immigration status, or any other classification. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008).

9. Petitioner's claim is a prototypical confinement challenge: he challenges only present detention and seeks release, which lies within the "core of habeas." *Doe*, 109 F.4th at 1194.

10. And federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the legality of Petitioner's detention.

11. Section 1252(b)(9) is not a jurisdictional bar here because petitioner does not seek review of removability, admission, or any order of removal; he challenges only prolonged physical detention and seeks release (or, alternatively, a bond hearing). *See Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018) (plurality opinion) (holding that, "[u]nder these circumstances, § 1252(b)(9) does not present a jurisdictional bar" to a prolonged-detention/bond-hearing challenge).

12. The Third Circuit recently applied *Jennings* and explained that § 1252(b)(9) channels into the petition-for-review process only those claims whose questions of law or fact are closely tied to removal—i.e., "inextricably linked" to the government's authority or basis to remove—while distinguishing "length-and conditions-of-confinement" as detention claims that are not channeled in the same way. *Khalil v. President of the United States*, 164 F.4th 259, 277 (3d Cir. 2026).

13. Petitioner's claims fall squarely on the detention-specific side of that line: Petitioner does not contest removability or ask this Court to halt removal proceedings; he

1 seeks only release (or a prompt bond hearing) because detention has become
2 unreasonably prolonged without constitutionally adequate process. *See Jennings*, 583
3 U.S. at 294-95 (plurality opinion).

4 14. Moreover, courts have recognized that channeling detention claims away
5 from district courts would risk allowing the government to evade meaningful judicial
6 review simply by delaying the entry of a final order for an extended period; in *E.O.H.C.*
7 the Third Circuit recognized jurisdiction over a prolonged-detention claim in district
8 court notwithstanding § 1252(b)(9). *See E.O.H.C. v Sec'y U.S. Dep't of Homeland Sec.*,
9 950 F.3d 177, 185-86 (3d Cir. 2020) (interpreting *Jennings*, 583 U.S. at 293).

10 VENUE

11 15. Petitioner is currently detained by the Respondents at the Imperial Regional
12 Detention Facility, an immigration detention facility in Calexico, California. He has been
13 in Immigration and Customs Enforcement (ICE) custody since on or about October 9,
14 2024. His case is currently pending appeal before the Board of Immigration Appeals
15 (BIA).

16 PARTIES

17 16. Respondent Sixto Marrero is the Senior Warden at the Imperial Regional
18 Detention Facility, where Petitioner is being held. Respondent Marrero is Petitioner's
19 immediate custodian. Petitioner names him in his official capacity.

20 17. On information and belief, Respondent Daniel A. Brightman is the current
21 Field Office Director responsible for the San Diego Field Office of ICE with
22 administrative jurisdiction over Petitioner's immigration case. He is Petitioner's legal
23 custodian. Petitioner names him in his official capacity.

24 18. Respondent Todd M. Lyons is the Acting Director of ICE. ICE is a
25 component of the U.S. Department of Homeland Security, 6 U.S.C. § 271, and an
26 "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701(b)(1).
27 It is the agency responsible for enforcing immigration laws, and it is detaining Petitioner.
28

1 Respondent Lyons has custodial authority over Petitioner, who names him in his official
2 capacity.

3 19. Respondent Kristi Noem is the Secretary of the Department of Homeland
4 Security (DHS). DHS is the federal agency responsible for enforcing immigration laws
5 and granting immigration benefits. *See* 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent
6 Noem has ultimate custodial authority over Petitioner, who names her in her official
7 capacity.

8 20. Respondent Pam Bondi is the Attorney General of the United States. She is
9 responsible for the Immigration and Nationality Act's implementation and enforcement
10 (*see* 8 U.S.C. § 1103(a)(1), (g)), and oversees the Executive Office for Immigration
11 Review. Petitioner names her in her official capacity.

12 STATEMENT OF FACTS

13 21. Petitioner is 28 years old and a national and citizen of Ethiopia. He was born
14 in Ethiopia in [REDACTED].

15 22. Petitioner entered the United States on or about October 9, 2024, west of
16 Calexico, California. He fled Ethiopia to seek asylum in the United States based on
17 persecution for his perceived political beliefs, [REDACTED]

18 [REDACTED] Petitioner has been
19 detained at the Imperial Regional Detention Facility ever since.

20 23. On November 14, 2024, an asylum officer attempted to provide a Credible
21 Fear Interview, but the interview was suspended because of a lack of mutual
22 intelligibility between Petitioner and the interpreter supplied by the Government.

23 24. Thus, DHS issued Petitioner a Notice to Appear (NTA), thereby
24 commencing removal proceedings in immigration court.

25 25. Petitioner was ultimately able to obtain *pro bono* representation, file an
26 Application for Asylum and for Withholding of Removal on May 15, 2025, and appear
27 with his counsel at a master calendar hearing on May 20, 2025.
28

1 26. Petitioner's individual merits hearing was set to go forward on October 21,
2 2025, but the interpreter provided by the Government was not capable of effectively
3 performing his duties, and the immigration judge ultimately suspended the hearing before
4 any evidence could be presented.

5 27. The individual merits hearing went forward on November 5 and 6, 2025,
6 when the case was deemed submitted. The immigration judge, however, did not have
7 sufficient time to issue a ruling.

8 28. The immigration court reconvened on November 21, 2025. At this hearing,
9 for the first time, the Government raised the issue of Petitioner's identity. To resolve the
10 issue, the immigration judge ordered counsel to an in-person hearing on December 2,
11 2025, and ordered the Government to produce the originals of certain disputed identity
12 documents confiscated from Petitioner at the border, and claimed by the Government to
13 be in the custody of DHS. The Government, however, was unable to produce these
14 documents at this hearing. A further hearing was thus set for December 12, 2025.

15 29. On December 11, 2025—approximately 19 hours before the individual
16 merits hearing set for the next morning—the Government filed a motion to pretermi
17 t Petitioner's asylum and protection application, and remove Petitioner to Uganda based on
18 a U.S.-Uganda Asylum Cooperative Agreement (ACA). The ACA was signed in July
19 2025 and published in the Federal Register on September 5, 2025—well after Petitioner
20 fled Ethiopia and entered the United States in October 2024.

21 30. Petitioner appeared for individual hearings before the immigration court on
22 October 21, November 5, 6, and 21, and December 21, 2025—all after the ACA's
23 publication—yet DHS stated nothing regarding Petitioner potentially being subject to the
24 Uganda ACA at any of those hearings or in writing until December 11, 2025.

25 31. The Government's motion to pretermi
26 t was granted at the next individual
27 hearing, on December 29, 2025, and the immigration court ordered Petitioner removed to
28 Uganda pursuant to the ACA. The immigration court never reached the merits of

1 Petitioner's underlying request for asylum, withholding of removal, or protection against
2 removal under the Convention Against Torture.

3 32. Petitioner timely perfected an appeal of the immigration court's order
4 granting the motion to pretermitt to the Board of Immigration Appeals (BIA) on January
5 13, 2026.

6 33. As of the time of filing of this petition, the BIA has not yet entered an order
7 establishing a briefing schedule for proceedings therein. Petitioner has not been provided
8 with any guidance or timeline for when the BIA will issue its merits decision after
9 briefing is submitted, creating the prospect of additional months of detention based solely
10 on the government's administrative processing time.

11 34. Petitioner's detention has thus been prolonged by government-caused delays
12 at both the trial and appellate levels of the immigration court process.

13 35. And Petitioner has been detained continuously since October 9, 2024—
14 exceeding 16 months as of the filing of this Petition—without ever receiving a bond
15 hearing before an immigration judge at which the government must justify continued
16 detention based on flight risk or danger. *Zadvydas*, 533 U.S. at 718; *Kydrali v. Wolf*, 499
17 F. Supp. 3d 768 (S.D. Cal. 2020).

18 36. Immigration and Customs Enforcement (ICE) has not provided Petitioner
19 with any meaningful process to challenge the necessity or duration of his detention.

20 37. Petitioner has not been convicted of any crime in the United States or
21 elsewhere.

22 38. Petitioner does not pose a flight risk. He has identified a sponsor in the
23 United States and demonstrated his willingness to comply with removal proceedings by
24 appearing at every scheduled hearing.

25 39. Petitioner does not pose a danger to the community. There is no evidence in
26 the record suggesting he has engaged in any violent or dangerous conduct.

LEGAL FRAMEWORK

Statutory Detention Authority

45. Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii), which provides that noncitizens found to have a credible fear of persecution are subject to mandatory detention pending consideration of an asylum application.

Due Process Constraints on Immigration Detention

46. The Due Process Clause applies to noncitizens, and the Supreme Court has “long recognized that the Fifth and Fourteenth Amendments refer to all persons, not just citizens.” *Yick Wo*, 118 U.S. at 369.

47. The Supreme Court has further held that “even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection of the Due Process Clauses of the Fifth and Fourteenth Amendments.” *Mathews*, 426 U.S. at 77-78; *see also Plyler v. Doe*, 457 U.S. 202, 210 (1982); *Wong Wing*, 163 U.S. 228, 238 (1896).

48. And while the Supreme Court in *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 107 (2020), rejected a habeas petitioner’s argument that the Due Process Clause conferred additional rights to challenge expedited removal beyond those Congress provided, and stated that “an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause,” *Thuraissigiam* does not foreclose a constitutional challenge to prolonged physical detention without an individualized bond hearing.

49. In *Thuraissigiam*, the Court reasoned that the political branches have plenary authority over admission and exclusion and that “an alien in respondent’s position has only those rights regarding admission that Congress has provided by statute,” (*id.* at 140), but courts have distinguished admission-related due process limitations from detention-related due process protections.

50. Consistent with that distinction, courts have recognized 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,” and have concluded that “the holding in *Thuraissigiam* does not foreclose” due process claims seeking a bond hearing with procedural protections. *Hernandez v. Wofford*, No. 25-cv-986-KES-CDB HC, 2025 WL 2420390, at *6 (E.D. Cal. Aug. 21, 2025) (cleaned up); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1171-72 (W.D. Wash. 2023).

51. And as courts have explained, “[n]owhere 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.” *A.L. v. Oddo*, 761 F. Supp. 3d 822, 825 (W.D. Pa. 2025).

Prolonged Detention Standard

52. Courts evaluating whether § 1225(b) detention has become unreasonably prolonged apply a fact-intensive balancing framework, including the six factors articulated in *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019) (citing *Jamal A. v. Whitaker*, 358 F. Supp. 3d 853, 858-59 (D. Minn. 2019)), accord *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773-74 (S.D. Cal. 2020).

53. Under that six-factor framework, courts consider: “(1) the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal.” *Banda*, 385 F. Supp. at 1106 (cleaned up).

54. Courts in this District have similarly recognized that, at some point, prolonged mandatory detention under § 1225(b) without an individualized bond hearing violates due process. See *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772-74 (S.D. Cal. 2020); *Rash v. LaRose*, No. 26v0008-LL-DEB, 2026 WL 249324 at *5 (S.D. Cal. Jan. 30, 2026) (“Considering all the factors, the Court finds Petitioner’s mandatory detention under § 1225(b) has become unreasonable and that due process requires that he be provided with

1 a bond hearing.”); *see also Rodriguez v. Robbins*, 715 F.3d 1127, 1144 (9th Cir. 2013)
2 (“[W]e note that the discretionary parole system available to § 1225(b) detainees is not
3 sufficient to overcome the constitutional concerns raised by prolonged mandatory
4 detention.”); *Sadeqi v. LaRose*, ___ F. Supp.3d ___, No. 25-cv-2587-RSH-BJW, 2025
5 WL 3154520 at *4 (S.D. Cal. Nov. 12, 2025); *Maksin v. Warden, Golden State Annex*,
6 No. 1:25-cv-00955-SKO (HC), 2025 WL 2879328 at *3 (E.D. Cal. Oct. 9, 2025)
7 (“Several courts including the Third, Sixth, and Ninth Circuit, as well as numerous
8 district courts, have found that unreasonably long detention periods may violate the due
9 process clause.” (collecting cases)); *Abdul-Samed v. Warden of Golden State Annex Det.*
10 *Facility*, No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343 at *6 (E.D. Cal. July 25,
11 2025) (“[E]ssentially all district courts that have considered the issue agree that
12 prolonged mandatory detention pending removal proceedings, without a bond hearing,
13 ‘will—at some point—violate the right to due process.’” (quoting *Martinez v. Clark*, No.
14 C18-1669-RAJMAT, 2019 WL 5968089 at *6 (W.D. Wash. May 23, 2019), *report and*
15 *recommendation adopted*, No. 18-CV-01669-RAJ, 2019 WL 5962685 (W.D. Wash. Nov.
16 13, 2019)).

17 **Bond Hearing Requirements**

18 55. Where mandatory detention has become unreasonably prolonged, due
19 process requires that Petitioner receive “a prompt and individualized bond hearing.” *See*
20 *Banda*, 385 F. Supp. 3d at 1106.

21 56. At such a hearing, the Government must justify continued detention by
22 “clear and convincing evidence that an alien is a flight risk or a danger to the community
23 to justify denial of bond.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011),
24 *abrogated on other grounds by Jennings v. Rodriguez*, 583 U.S. 281 (2018); *see also*
25 *Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024).

26 **COMPROMISED NEUTRALITY OF IMMIGRATION JUDGES**

27 57. Ideally, this Court could remedy the present due process violations by
28 ordering a bond hearing before a neutral immigration judge (“IJ”), allowing the IJ to

1 determine whether Petitioner posed a risk of danger or flight. Unfortunately, attacks on IJ
2 independence under the current administration have severely compromised IJs'
3 neutrality. As a result, there is a serious risk that an IJ will order Petitioner's continued
4 detention even if he poses no danger or flight risk. Several data points support that
5 conclusion.

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

11 Recognition from Bench & Bar

12 59. In a recently filed declaration, local attorney Edward Perez attests that some
13 immigration judges sitting within this District have shown a concerning pattern of
14 resistance to implementing habeas orders requiring bond hearings. *Elsayed v Noem*, Case
15 No. 26-cv-368, Doc. 5-2 at ¶ 7 (S.D. Cal. Feb. 9, 2026). These IJs have begun denying
16 bond on the ground that court hearings are coming up, and release would disrupt the
17 hearing schedule. *Id.* Of course, that logic could justify any asylum seeker's detention,
18 and it has nothing to do with danger or flight. *Id.* Furthermore, the Department of
19 Homeland Security ("DHS") has started appealing bonds to take advantage of the
20 automatic stay. *Id.* Both of these strategies ensure that even those who pose no risk of
21 danger or flight will stay in detention. *Id.*

22 60. This Court is far from the only district in which these concerns have been
23 raised. In *Briceno Solano v. Mason*, ___ F. Supp. 3d ___, No. 26-CV-00045, 2026 WL
24 311624 (S.D.W. Va. Feb. 4, 2026), the Southern District of West Virginia ordered the
25 immediate release of an immigration detainee in response to a habeas petition. *Id.* at *20.
26 In entering this order, *Briceno Solano* explicitly found holding "a bond hearing would be
27 futile." *Id.* In support of its finding, *Briceno Solano* credited a declaration from former
28 ICE counsel Jorge Artieda who attested "to his firsthand observation and experience that,

1 since the beginning of January 2026,” immigration detainees “who were granted federal
2 habeas relief and ordered § 1226(a) bond hearings are now being systematically denied
3 bond based on rationales that would not have been deemed sufficient weeks earlier.” *Id.*
4 Mr. Artieda attributed this to “a systematic effort to nullify the constitutional protections
5 that federal courts have recognized and enforced through habeas corpus.” *Id.*

6 61. The Southern District of West Virginia is not alone with *Briceno Solano*. In
7 *Yin v. Moldanado*, the Eastern District of New York expressed consternation at an IJ’s
8 “conclusory, two-line determination of flight risk” for a person whom DHS had
9 previously agreed “to release . . . on his own recognizance” and who “attend[ed] [all]
10 immigration check-ins” during his release. No. 26-CV-0103 (PKC), 2026 WL 295389, at
11 *3 (E.D.N.Y. Feb. 4, 2026).

12 62. In *Said v. Noem*, the Western District of North Carolina ordered a bond
13 hearing for a habeas petitioner, only to learn that “[t]he IJ denied Petitioner the
14 opportunity to present testimony, declined to consider the sworn, documentary evidence
15 submitted by Petitioner, and based his decision on an uncorroborated, unauthenticated
16 claim by a government official that Petitioner failed to share his location for the ISAP.”
17 No. 3:25-CV-938-MOC, 2026 WL 295651, at *5 (W.D.N.C. Feb. 4, 2026). The original
18 habeas “Order presupposed that this hearing would be conducted in accordance with
19 Petitioner’s due process rights,” the court wrote, but “[i]t was not.” *Id.*

20 63. And in *Picado v. Hyde*, the District of Rhode Island ordered outright release
21 after two deficient bond hearings. No. 26-CV-065-JJM-PAS, 2026 WL 352691, at *7
22 (D.R.I. Feb. 9, 2026). The IJ in the second hearing had deemed the immigrant a danger to
23 the community based on an uncorroborated police report accusing him of driving 90 mph
24 in a 55-mph zone. *Id.*

25 Source Evidence for Lack of Immigration Judge Independence

26 64. These trends are consistent with sustained attacks on IJs’ independence
27 under this administration. Several examples illustrate the point.
28

65. First, the Trump administration has eliminated 128 IJs insufficiently aligned with the administration's priorities, illustrating to the remaining IJs the cost of resistance. See Woo-Sun Lim, *Former Judge Highlights Legal Failures in U.S. Worker Detentions*, The Dong-A Ilbo (Sept. 20, 2025), <https://www.donga.com/en/article/all/20250920/5859412/1>.

66. These IJs are under no illusions about why they were let go. Former Baltimore IJ Emmett Soper stated: "I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers. I think that they see the immigration courts as a tool for this administration to advance its policy objectives." Geoff Bennett & Ali Schmitz, *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-judgesspeak-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/>.

67. 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 Gutted from Inside*, Law360 (Oct. 31,

2025), <https://www.law360.com/articles/2381003/judges-see-an-immigration-courtguttled-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*, The Guardian (Nov. 21, 2025), <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” (Dep’t of Homeland Security Instagram (Nov. 21, 2025), <https://perma.cc/2QDV-Y93D?type=standard>).

68. *Second*, beyond personnel changes, EOIR’s new acting director, Sirce E. Owen, has issued “a string of sharply worded policy memos” encouraging IJs to side with the government over immigrants and minimize due process. E. Tammy Kim, *Inside Donald Trump’s Attack on Immigration Courts*, New Yorker, <https://www.newyorker.com/inside-donald-trumps-attack-on-immigration-court>. The policy directives include: a memorandum dated June 27, 2025, warning judges not to demonstrate “bias directed against DHS” or to be “adjudicatory outliers,” at risk of “close examination and potential action,” Exec. Off. For Immigr. Rev., Policy Memorandum 25-33, *Neutrality and Impartiality in Immigration Court Proceedings* (June 27, 2025), <https://www.aila.org/library/eoir-policy-memo-25-33-on-neutrality-and-impartiality-in-immigration-court-proceedings>; a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to reduce due process protections, Exec. Off. for Immigr. Rev., Policy Memorandum 25-28, *Pretermission of Legally Insufficient Application for Asylum* (Apr. 11, 2025), <https://www.justice.gov/eoir/media/1396411/dl?inline>; and memoranda restricting immigration judges’ ability to grant continuances, Exec. Off. for Immigr. Rev., Policy Memorandum 25-27, *Cancellation of Director’s Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13* (Mar. 21, 2025), <https://www.justice.gov/eoir/media/1394086/dl?inline>, and administrative closure, Exec.

1 Off. for Immigr. Rev., Policy Memorandum 25-29, Cancellation of Director's
2 Memorandum 22-03 (Apr. 18, 2025),
3 <https://www.justice.gov/eoir/media/1397161/dl?inline>.

4 69. *Third*, EOIR personnel have at times directed IJs to ignore federal court
5 orders related to bond hearings. On January 13, 2026, in the wake of *Maldonado Bautista*
6 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20,
7 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSSBFM, 2025 WL
8 3288403, at *9 (C.D. Cal. Nov. 25, 2025), Chief Immigration Judge Teresa L. Riley sent
9 all IJs the following instructions:

10 Please provide the following guidance to all immigration judges forthwith:
11 *Maldonado Bautista* is not a nationwide injunction and does not purport to
12 vacate, stay, or enjoin *Yajure Hurtado*. Therefore *Yajure Hurtado* remains
13 binding precedent on agency adjudications. For clarification, declaratory
14 judgments differ from injunctions in that the former clarifies parties' legal
15 rights and relationships without ordering specific action, while the latter is a
16 court order compelling a 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.

17 Am. Immigr. Laws. Ass'n, Practice Alert: EOIR Issues Nationwide Guidance on
18 *Maldonado Bautista*, AILA Doc. No. 26011404 (Feb. 19, 2026),
19 <https://www.aila.org/library/practice-alert-district-court-vacates-Yajure-Hurtado>. A few
20 days later, Judge Sykes of the Central District of California issued a scathing order,
21 calling out "Respondents' deliberate choice to continue defying the final judgment
22 entered in *Bautista*." *Palomera Baltazar v. Janecka*, No. 5:26-cv-00019-SSS-BFM, 2026
23 WL 413734 at *1 (C.D. Cal. Jan. 16, 2026).

24 In the Habeas Context

25 70. IJs' resistance to granting bond therefore accords with the larger movement
26 to eliminate or silence IJs willing to rule in favor of immigrants, while bringing those that
27 remain into line with the administration's priorities.
28

1 71. The “equitable and flexible nature of habeas relief” affords district courts
2 significant discretion over the appropriate remedies for violations of law and the
3 Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup*
4 *v. Delo*, 513 U.S. 298, 319 (1995) (“[H]abeas corpus is, at its core, an equitable
5 remedy”). This Court should order a remedy that fully addresses the statutory and
6 constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee*,
7 391 U.S. 234, 238 (1968) (the habeas statute “does not limit the relief that may be
8 granted to discharge of the applicant from physical custody. Its mandate is broad with
9 respect to the relief that may be granted.”).

10 **CLAIMS FOR RELIEF**

11 **FIRST CAUSE OF ACTION**

12 **Fifth Amendment Due Process Violation—Prolonged Mandatory**
13 **Detention Without Bond Hearing**

14 **Against All Respondents**

15 72. Petitioner re-alleges and incorporates by reference paragraphs 1-71 above as
16 if fully set forth herein.

17 73. Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii) and has
18 remained continuously detained since on or about October 9, 2024—now exceeding 16
19 months—without any individualized custody or bond hearing.

20 74. The Due Process Clause applies to noncitizens. *Yick Wo*, 118 U.S. at 369;
21 *Mathews*, 426 U.S. at 77-78; *Plyler*, 457 U.S. at 210; *Wong Wing*, 163 U.S. at 238.

22 75. *Thuraissigiam* does not foreclose this detention-based due process claim,
23 because *Thuraissigiam* addressed admission-related limits on review of expedited
24 removal screening rather than whether a person may be held for an unreasonably
25 prolonged period without an individualized custody hearing. *See Padilla*, 704 F. Supp. 3d
26 at 1171-72 (*Thuraissigiam* does not foreclose bond-hearing due process claims);
27 *Hernandez v. Wofford*, No. 25-cv-986-KES-CDB HC, 2025 WL 2420390 at *3 (E.D.
28 Cal. Aug. 21, 2025) (same).

1 76. Courts have likewise emphasized that *Thuraissigiam* does not suggest §
2 1225(b) detainees may be held “indefinitely and unreasonably with no due process
3 implications.” *A.L. v. Oddo*, 761 F. Supp. 3d at 825.

4 77. Whether § 1225(b) detention has become unreasonably prolonged is
5 assessed under a fact-intensive balancing test considering (1) length of detention; (2)
6 likely future duration; (3) conditions; (4) detainee-caused delay; (5) government-caused
7 delay; and (6) likelihood of a final removal order. *Banda*, 385 F. Supp. 3d at 1106.

8 78. Applying these factors, Petitioner’s detention has become unreasonably
9 prolonged and arbitrary.

10 79. First, Petitioner has already been detained for approximately 16 months.
11 Courts have found detentions of similar and shorter duration without a bond hearing
12 weigh toward a finding that they are unreasonable. *See, e.g., Gao v. LaRose*, 805 F. Supp.
13 3d 1106, 1112 (S.D. Cal. 2025) (over ten months); *Masood v. Barr*, No. 19-CV-07623-
14 JD, 2020 WL 95633, at *2 (N.D. Cal. Jan. 8, 2020) (nearly nine months); *Cabral v*
15 *Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (over seven months); *Brissett v.*
16 *Decker*, 324 F. Supp. 3d 444, 452 (S.D.N.Y. 2018) (over nine months).

17 80. Second, there is no definite end to Petitioner’s detention in sight. Petitioner’s
18 future detention can last several more months or even years during the adjudication of his
19 appeal to the BIA and, if unfavorable, Petitioner’s appeal to the Ninth Circuit. *See Banda*,
20 385 F. Supp. 3d at 1119 (finding an appeal to the BIA and subsequent judicial review
21 “may take up to two years or longer”).

22 81. Third, Petitioner is detained at the Imperial Regional Detention Facility, a
23 jail-like detention center where he is confined with restricted liberty and limited contact
24 with the outside world, including his counsel. The conditions are punitive in nature,
25 despite the civil character of immigration detention. Every day of Petitioner’s prolonged
26 detention takes an incalculable toll on his mental health.

1 - - - 82. Fourth, Petitioner has not caused any delays in his proceedings. He appeared
2 at every scheduled hearing and cooperated with the removal proceedings process
3 throughout.

4 83. Fifth, delays in Petitioner's proceedings were substantially caused by the
5 government, not Petitioner. Petitioner appeared for five individual hearings (October 21,
6 November 5, 6, and 21, and December 21, 2025)—all after the Uganda ACA's
7 publication—yet DHS raised no ACA issue until December 11, 2025, approximately 19
8 hours before the individual merits hearing set for the next morning. DHS's untimely
9 motion caused additional delay and further prolonged Petitioner's detention. At the
10 appellate level, although Petitioner timely filed a Notice of Appeal in January 2026, as of
11 time of filing of this petition the BIA has not yet ordered a briefing schedule—with no
12 timeline for a decision after the eventual briefing deadline.

13 84. Finally, Petitioner has a pending appeal challenging the IJ's decision to
14 pretermite his asylum application based on the U.S.–Uganda Asylum Cooperative
15 Agreement. His appeal raises substantive questions about whether the ACA was properly
16 applied, whether it can be applied retroactively to an individual who entered before its
17 publication, whether DHS met its burden to show Uganda will accept him and provide a
18 full and fair procedure, and whether removal of Petitioner to Uganda in the face of
19 evidence he would be subject to persecution there violates treaty obligations under the
20 Convention Against Torture. Thus, he may likely prevail on his appeal and have his case
21 remanded for further proceedings.

22 85. These factors weigh in favor of finding Petitioner's detention unreasonable
23 and unconstitutional.

24 86. Due process therefore requires a prompt individualized bond hearing. *See*
25 *Banda*, 385 F. Supp. 3d at 1106.

26 87. At that hearing, the Government must justify continued detention by clear
27 and convincing evidence that Petitioner is a flight risk or danger. *Singh*, 638 F.3d at 1203.
28

1 88. By continuing to detain Petitioner without providing that prompt
2 individualized bond hearing with the Government bearing the clear and convincing
3 burden, Respondents are violating Petitioner's rights under the Fifth Amendment's Due
4 Process Clause. *Banda*, 385 F. Supp. 3d at 1106; *Singh*, 638 F.3d at 1203.

5 **SECOND CAUSE OF ACTION**

6 **Fifth Amendment Due Process Violation—Arbitrary and**
7 **Unreasonable Government-Caused Delay**

8 **Against All Respondents**

9 89. Petitioner re-alleges and incorporates by reference paragraphs 1-88 above as
10 if fully set forth herein.

11 90. Petitioner has been detained under 8 U.S.C. § 1225(b)(1)(B)(ii) since on or
12 about October 9, 2024, and remains confined at Imperial Regional Detention Facility
13 while his appeal remains pending before the BIA with no timeline for a decision.

14 91. Separate and apart from Petitioner's claim that prolonged mandatory
15 detention without a bond hearing violates due process, Petitioner alleges here that
16 Respondents and other government actors have affirmatively prolonged his detention
17 through avoidable administrative delay, rendering continued confinement arbitrary and
18 constitutionally unreasonable.

19 92. Government-caused delays are a central consideration in determining
20 whether continued detention has become constitutionally unreasonable. *See Banda*, 385
21 F. Supp. 3d at 1106 (including "delays . . . caused by the government" as a factor in
22 assessing whether detention has become unreasonably prolonged).

23 93. Petitioner has been detained for over 16 months, and the length of his
24 proceedings has been driven largely by government-caused delay rather than any action
25 by Petitioner. In immigration court delays were caused by the Government's failure to
26 provide a competent interpreter, and failure to produce documents as directed by the
27 immigration court. At the appellate stage, as of time of filing of this petition the BIA has
28 not yet ordered a briefing schedule.

THIRD CAUSE OF ACTION

**Fifth Amendment Due Process Violation—No Neutral Decisionmaker
Against All Respondents**

94. Petitioner re-alleges and incorporates by reference paragraphs 1-93 above as if fully set forth herein.

95. “A fair trial in a fair tribunal is a basic requirement of due process” *In re Murchison*, 349 U.S. 133, 136 (1955). “And, of course, an impartial decision maker is essential.” *Goldberg v. Kelly*, 397 U.S. 254, 271 (1970). “This applies to administrative agencies which adjudicate as well as to courts.” *Withrow v. Larkin*, 421 U.S. 35, 46 (1975).

96. Moreover, “it is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.” *Trump v. J. G. G.*, 604 U.S. 670, 673 (2025) (cleaned up).

97. In light of the facts stated above, due process cannot be safeguarded in a hearing before an immigration judge, as immigrations courts are currently constituted and operating.

98. In order to safeguard due process, this Court can order a custody hearing before *this* Court. The habeas court can hold its own custody hearing and determine whether the government can prove by clear and convincing evidence that Petitioner must remain in custody, or whether he may be released on recognizance. *See, e.g., L.G.M. v. LaRocco*, 788 F. Supp. 3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F. Supp. 2d 474-78 (D. Mass 2010) (granting petition and discussing at length habeas court’s equitable power, which includes power to hold its own bail hearing); *see also Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold the court’s own bond determination);

1 *Ramirez v Watkins*, No. 10-cv-126, 2010 WL 6269226, at *19-20 (S.D. Tex. Nov. 3,
2 2010), *rep. and rec. not reached*, (S.D. Tex. Dec. 8, 2010) (dismissing case as moot)
3 (recommending the habeas court conduct its own bail inquiry, as it would be more
4 efficient, ensure supervision over any compliance issues, and avoid further proceedings).

5 99. At a minimum, this Court can order that Petitioner be provided a 1226(a)
6 bond hearing before an immigration judge, but with additional safeguards. Specifically,
7 this Court can order:

- 8 a. A bond hearing where the government shall bear the burden of
9 establishing by clear and convincing evidence that Petitioner poses a
10 danger or flight risk, while further specifying that concerns about
11 interrupting court schedules is not a ground to deny bond;
12 b. Provide that the habeas court shall retain jurisdiction to review the
13 immigration judge bond decision to ensure compliance with the court's
14 order and due process; and
15 c. Prohibit ICE from invoking the automatic stay provisions under 8 C.F.R.
16 § 1003.19(i)(2) to defeat the immigration judge's bond determination.

17 **PRAYER FOR RELIEF**

18 Petitioner asks this Court to grant the following relief:

- 19 1. Assume jurisdiction over this matter;
20 2. Order Respondents to show cause why the writ should not be granted as to
21 Petitioner within three days, and set a hearing on this Petition within five days
22 of the return, as required by 28 U.S.C. § 2243;
23 3. Enjoin Respondents from transferring Petitioner out of the jurisdiction during
24 the pendency of the habeas petition;
25 4. Issue a writ of habeas corpus requiring that Respondents immediately release
26 Petitioner from immigration custody;
27 5. Alternatively, order Respondents to provide a prompt individualized bond
28 hearing before a neutral adjudicator at which the Government bears the burden

1 by clear and convincing evidence (*see Singh*, 638 F.3d at 1203), and that any
2 such hearing be subject to the safeguards described above in paragraph 99,
3 specifically ordering:

- 4 a. A bond hearing where the government shall bear the burden of
5 establishing by clear and convincing evidence that Petitioner poses a
6 danger or flight risk, while further specifying that concerns about
7 interrupting court schedules is not a ground to deny bond;
8 b. Provide that the habeas court shall retain jurisdiction to review the
9 immigration judge bond decision to ensure compliance with the court's
10 order and due process; and
11 c. Prohibit ICE from invoking the automatic stay provisions under 8 C.F.R.
12 § 1003.19(i)(2) to defeat the immigration judge's bond determination;
13 6. Alternatively, order a custody hearing before this Court;
14 7. Enjoin Respondents from further detaining him without providing notice to the
15 Court and Petitioner's counsel, and a hearing at which Respondents prove
16 changed circumstances regarding his dangerousness or risk of flight warrant his
17 detention;
18 8. Declare that Petitioner's detention violates the Due Process Clause of the Fifth
19 Amendment. *See Kydrali*, 499 F. Supp. 3d at 772-74; and
20 9. Grant such further relief as this Court deems just and proper.
21

22 Dated: March 23, 2026

23 By: /s/ Mitchell B. Malachowski
24 MITCHELL B. MALACHOWSKI
25 Attorney for Petitioner
26 FAYISA GAMACHU DANGIA
27
28

TABLE OF EXHIBITS

- Exhibit 1: Form I-862, Notice to Appear, dated November 21, 2024, and Memorandum from Asylum Officer Amy Chaung, dated November 14, 2025
- Exhibit 2: Order of the Immigration Judge, dated December 29, 2025
- Exhibit 3: Declaration of Petitioner Fayisa Gamachu Dangia, executed March 19, 2026