

1 **Jessie Agatstein**
2 Cal. Bar No. 319817
3 **Federal Defenders of San Diego, Inc.**
4 225 Broadway, Suite 900
5 San Diego, California 92101-5030
6 Telephone: (619) 234-8467
7 Facsimile: (619) 687-2666
8 Jessie_Agatstein@fd.org

9 Attorneys for Mr. Gomez Cabrera

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

12 LEONEL AMILCAR GOMEZ
13 CABRERA,

14 Petitioner,

15 v.

16 MARKWAYNE MULLIN, Secretary of
17 the Department of Homeland Security,
18 TODD BLANCHE, Acting Attorney
19 General, TODD M. LYONS, Acting
20 Director, Immigration and Customs
21 Enforcement, JESUS ROCHA, Acting
22 Field Office Director, San Diego Field
23 Office, JEREMY CASEY, Warden at
24 Imperial Regional Detention Center,

25 Respondents.

Case No.: 26-cv-2330-BTM-DEB

**Traverse in Support of
Unopposed Second Amended
Petition for Writ of
Habeas Corpus**

**[Civil Immigration Habeas,
28 U.S.C. § 2241]**

26 Mr. Gomez Cabrera was ordered deported to Honduras in a final
27 reinstatement of removal order in January 2025. Exhibits A, B. He continues to be
28 in withholding-only proceedings, detained at the Imperial Regional Detention
Center. Exhibit A; *see* Exhibit C (pending Ninth Circuit appeal docket). Upon
denying his first amended petition without prejudice requesting immediate
release, this Court noted that "Petitioner could pursue a claim for a bond hearing
based on the length of his detention." ECF No. 13. He has now done so. As the

1 government notes in its return, “[g]iven the length of detention,” it “does not
2 oppose this Court ordering that Petitioner receive an individualized bond hearing
3 before an immigration judge.” ECF No. 18 at 2.

4 A bond hearing is appropriate as a matter of due process under the six
5 factors identified in *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1118 (W.D.
6 Wash. 2019).

7 “The first and ‘most important factor,’ length of detention, favors the
8 Petitioner.” *Parmar v. Larose*, No. 26-cv-1040-BTM-MMP, 2026 WL 879394, *3
9 (S.D. Cal. Mar. 30, 2026) (quoting *Banda*, 385 F. Supp. 3d at 1118). Mr. Gomez
10 Cabrera has been detained for 18 months, “a length of time beyond what many
11 courts have found unreasonable.” *Id.*

12 The second factor also weighs in favor of Mr. Gomez Cabrera: The process
13 within the Ninth Circuit “may take years.” *Id.* His opening brief is not yet filed.
14 *See* Exhibit C.

15 Next, the third factor weighs in favor of Mr. Gomez Cabrera, who is
16 detained in the Imperial Regional Detention Center. “[C]ourts have recognized
17 that the conditions in local detention centers are ‘indistinguishable from penal
18 confinement,’ including the Imperial Regional Detention Center. *Uferk v.*
19 *Brightman*, No. 26-cv-2354-RBM-DDL, 2026 WL 1157166, *3 (S.D. Cal. Apr.
20 28, 2026).

21 The fourth, fifth, and sixth factors—“consider[ing] the nature and extent of
22 the delays caused by the parties,” and the likelihood that the removal proceedings
23 will result in a final order of removal”—are “neutral.” *Parmar*, 2026 WL 879394
24 at *3. Neither party appears to have delayed more than the other. And while
25 Mr. Gomez Cabrera has a strong claim, this Court need not “judge the likelihood
26 of success of this argument” to grant the petition. *Id.* Because the first three
27 factors strongly favor Mr. Gomez Cabrera, and the remaining three are neutral,
28 Mr. Gomez Cabrera’s prolonged detention violates the due process clause. *See id.*

1 Mr. Gomez Cabrera thus respectfully requests that this Court order
2 Respondents to provide an “individualized bond hearing with additional
3 safeguards.” *Id.* at *4. It should order the bond hearing be “before a fair, neutral,
4 and open-minded immigration judge” who determines “whether [Mr. Gomez
5 Cabrera] is a danger to the community or a flight risk and what bond conditions, if
6 any, would be appropriate to ensure [Mr. Gomez Cabrera’s] appearance. During
7 the bond hearing, the [government]¹ shall bear the burden of establishing by clear
8 and convincing evidence that [Mr. Gomez Cabrera] poses a danger or a flight
9 risk.” *Id.* It should order that, “[i]f the immigration judge denies bond, the judge
10 must make specific findings as to why the Petitioner is a flight risk or a danger to
11 the community.” *Id.*

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13 Respectfully submitted,

14 Dated: July 14, 2026

s/ Jessie Agatstein

Federal Defenders of San Diego, Inc.
Attorneys for Mr. Gomez Cabrera
Email: Jessie_Agatstein@fd.org

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26 ¹ In counsel’s experience, it is preferable to order that “the Government” bear the
27 burden of proof. In immigration court, *immigrants* are the Respondents to the
28 government’s notice to appear, so immigration practitioners can be confused
regarding the government’s burden of proof if the government is referred to as the
“Respondents.”