

DETAINED

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

In the matter of:

RIGAT ABRHA HAGOS

Petitioner

v.

JEREMY CASEY, WARDEN OF
IMPERIAL REGIONAL DETENTION
FACILITY

Respondents

) Case Number: 26-cv-2365-JO-SBC

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) PETITIONER'S REPLY TO
) RESPONDENTS' OPPOSITION
) TO MOTION TO ENFORCE
) JUDGMENT

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) Challenge to Unlawful
) Incarceration; Request for
) Declaratory and Injunctive Relief

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PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO MOTION
TO ENFORCE JUDGMENT

**PETITIONER DID NOT RECEIVE A CONSTITUTIONALLY ADEQUATE
BOND HEARING**

1. Due process requires that continued civil detention be justified through a fair procedure.
2. Petitioner did not receive a constitutionally adequate bond hearing. The Immigration Judge failed to conduct a meaningful individualized assessment of whether Petitioner posed a danger or flight risk and instead offered a conclusory determination unsupported by reasoning or evidence.
3. A constitutionally adequate bond hearing requires that the government bear the burden of proof; that the burden be satisfied by clear and convincing evidence; and that the adjudicator provide an individualized determination supported by reasoned analysis, including consideration of alternatives to detention and the noncitizen's ability to pay. See *Rodriguez-Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022).
4. Those requirements were not satisfied here. Petitioner has now been detained for approximately **15 months**, without receiving a constitutionally adequate bond hearing, rendering her continued detention unlawful.
5. Although he was provided a hearing before an Immigration Judge, that proceeding failed to satisfy due process because the government was not required to meet the constitutionally mandated burden of proof, the decision relied on unsupported assertions, and the court failed to meaningfully consider alternatives to detention, Petitioner's ability to pay, and overwhelming evidence of her community ties.
6. Despite these extraordinary humanitarian factors, Respondents continue to detain Petitioner without meaningful review of whether her continued custody



1 is justified. Her prolonged detention, under these circumstances, violates the
2 Due Process Clause of the Fifth Amendment.

3 7. Petitioner has now fully exhausted available administrative remedies by timely
4 appealing the Immigration Judge's custody determination and denial of relief to
5 the Board of Immigration Appeals. Because administrative review cannot
6 remedy the ongoing constitutional violations caused by his prolonged detention,
7 habeas relief is appropriate and necessary.

8 8. The absence of a reasoned explanation is independently sufficient to render the
9 bond determination defective. See *Rodriguez-Diaz v. Garland*, 53 F.4th 1189,
10 1206–07 (9th Cir. 2022). Courts in this District, including this Court, have
11 required that detention decisions be preceded by a procedurally adequate
12 hearing before a neutral adjudicator. See *Mustafa Anif Afshar v. Marin*, No. ED
13 26-cv-00308-JAK (C.D. Cal. Apr. 7, 2026) (requiring a pre-detention hearing
14 before a neutral immigration judge); *Vilca Yataco v. Warden*, No. 5:25-cv-
15 03229-JAK (C.D. Cal. Jan. 16, 2026) (prohibiting re-detention absent a hearing
16 where the government proves necessity by clear and convincing evidence).

17 9. This Court has already recognized that detention decisions must be preceded by
18 a neutral adjudicatory process sufficient to satisfy due process.

19 10. Even if the Court were to assume procedural compliance, the record contains
20 no evidence establishing that detention is necessary to mitigate flight risk or
21 danger. The government has failed to show any nexus between Petitioner's
22 continued detention and its purported purposes.

23 11. At a constitutionally adequate bond hearing: the government must bear the
24 burden of proof; the burden must be clear and convincing evidence; the
25 adjudicator must consider alternatives to detention; the adjudicator must evaluate
26 ability to pay and conditions of release.
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1 12. Petitioner has been denied such a hearing.

2 13. Despite substantial evidence demonstrating that he is not a flight risk or danger
3 and strong community ties Respondents continue to detain him without
4 meaningful review.

5 14. This lack of procedural safeguards renders his detention unconstitutional.

6 15. Likewise, Petitioner has due process rights to challenge their detention.
7 *Zadvydas v. Davis*, 533 U.S. 678, 693, 695 (2001) (while noncitizens outside
8 the United States' "geographic borders" lack constitutional protections, all
9 "persons" within them are protected by the Due Process Clause, regardless of
10 immigration status); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205-06 (9th
11 Cir. 2022) (though constitutional rights of citizens and noncitizens "are not
12 coextensive," noncitizens are entitled to due process, including to challenge
13 detention pending proceedings).

14 16. As the Ninth Circuit held, the Due Process Clause applies to noncitizens
15 regardless of whether they are "seeking admission" or are "admitted" under
16 immigration law. *Wong v. United States*, 373 F.3d 952, 973 (9th Cir. 2004),
17 abrogated on other grounds by *Wilkie v. Robbins*, 551 U.S. 537 (2007); see also
18 *Padilla v. U.S. Immigr. & Customs Enft*, 704 F. Supp. 3d 1163, 1171 (W.D.
19 Wash. 2023). The Due Process Clause allows Petitioner to challenge his
20 detention.
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22 17. Petitioner challenges his deprivation of liberty and detention, not the adequacy
23 of the procedures the immigration laws afford him "with respect to admission.
24 Petitioner solely challenging his detention, and he is not bringing a constitutional
25 claim with respect to the procedures governing his legal admission into the
26 United States.

27 18. To the extent Respondent takes the extraordinary position that Petitioner has no
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1 due process rights at all, that is unsupported by law and would have gruesome
2 practical consequences: “If excludable [noncitizens] were not protected by even
3 the substantive component of constitutional due process, ... we do not see why
4 the United States government could not torture or summarily execute them. ...
5 [W]e conclude that government treatment of excludable [noncitizens] must
6 implicate the Due Process Clause of the Fifth Amendment.”. *Rosales-Garcia v.*
7 *Holland*, 322 F.3d 386, 412 (6th Cir. 2003) (en banc); see also *Jean v. Nelson*,
8 472 U.S. 846, 874 (1985) (Marshall, J., dissenting) (“[T]he principle that
9 unadmitted [noncitizens] have no constitutionally protected rights defies
10 rationality. Under this view, the Attorney General, for example, could invoke
11 legitimate immigration goals to justify a decision to stop feeding all detained
12 [noncitizens] Surely, we would not condone mass starvation.”). Thus, there
13 is no question that Petitioner has the right to challenge the constitutionality of
14 his prolonged detention under the Due Process Clause of the Fifth Amendment
15 of the Constitution.

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17 19. Courts throughout this Circuit granted Motion to Enforce Judgment after
18 Petitioner **was unreasonably deemed a flight risk after a bond hearing**. See,
19 e.g., *Tiboko-Tfiuh v. Noem* (3:26-cv-01215).

20 **JURISDICTION EXISTS AND EXHAUSTION IS NOT REQUIRED**

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22 20. This Court has jurisdiction over Petitioner’s constitutional claims under 28
23 U.S.C. § 2241, which authorizes federal courts to review the legality of
24 executive detention. The writ of habeas corpus remains available to challenge
25 unlawful immigration detention, particularly where a petitioner alleges
26 violations of due process.

27 21. The Supreme Court has long recognized that habeas jurisdiction extends to
28 noncitizens challenging the legality of their detention. See *Zadvydas v. Davis*,



1 533 U.S. 678, 687 (2001) (confirming availability of habeas relief to challenge
2 post-removal-period detention); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003)
3 (recognizing habeas jurisdiction over immigration detention challenges).

4 Exhaustion is not Required for Constitutional Challenges

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6 22.Exhaustion of administrative remedies is not required where a petitioner raises
7 constitutional claims that the agency lacks authority to resolve. The Ninth
8 Circuit has consistently held that exhaustion is prudential, not jurisdictional, and
9 does not apply where it would be futile or inadequate.

10 23.In *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), the Ninth Circuit
11 confirmed that due process challenges to bond procedures are properly brought
12 in habeas and do not require exhaustion where the agency cannot provide the
13 requested relief. Similarly, in *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th
14 Cir. 2017), the court held that noncitizens may seek habeas relief to challenge
15 constitutionally deficient bond proceedings.

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17 24.District courts across this Circuit have applied the same principle in prolonged
18 detention cases. Where the claim is that the process itself is unconstitutional,
19 requiring exhaustion would serve no purpose because the agency cannot cure
20 the constitutional defect.

21 Exhaustion is Excused Where it Would be Futile or Inadequate

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23 25.Even where exhaustion might otherwise apply, it is excused where
24 administrative remedies are inadequate or futile. See *Laing v. Ashcroft*, 370 F.3d
25 994, 1000–01 (9th Cir. 2004) (recognizing exceptions to exhaustion where
26 remedies are inadequate, futile, or where irreparable harm would result).
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1 26. Here, exhaustion is futile because Petitioner challenges the legal sufficiency of
2 the bond hearing framework itself, not merely an individual decision. The Board
3 of Immigration Appeals lacks authority to impose the constitutionally required
4 burden of proof or to restructure detention proceedings to conform to due
5 process requirements articulated in *Rodriguez-Diaz*.

6 27. Moreover, Petitioner faces ongoing and irreparable harm, including continued
7 unlawful detention and severe medical deterioration. Under such circumstances,
8 courts routinely excuse exhaustion.

9 **Courts in This District Routinely Exercise Jurisdiction Without Requiring**
10 **Exhaustion**

11 28. Courts in this District, including this Court, regularly exercise habeas
12 jurisdiction over immigration detention claims without requiring exhaustion,
13 particularly where constitutional violations are alleged.

14 29. Likewise, in *Khav v. Noem*, No. 3:26-cv-01274-JO-MMP, this Court granted
15 Motion to Enforce Judgment based on inadequate bond hearing.

16 30. Similarly, in *Rumiantseva v. Larose*, No. 26-cv-2214-JO-DEB, U.S. Southern
17 District Court granted Motion to Enforce Judgment based on inadequate bond
18 hearing.

19 31. These cases reflect a consistent practice: where detention violates constitutional
20 standards, federal courts do not require prolonged administrative exhaustion
21 before granting relief.

22 32. Here, Petitioner's challenge is not to the outcome of a discretionary decision,
23 but to the constitutional adequacy of the process itself. Because the agency
24 cannot remedy these constitutional violations, exhaustion is not required.

25 33. Requiring Petitioner to pursue additional administrative remedies would only
26 prolong unlawful detention and exacerbate the ongoing harm he is suffering.
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1 Under settled Supreme Court and Ninth Circuit precedent, this Court should
2 exercise jurisdiction and grant relief.

3 34. Wherefore, Petitioner respectfully requests this Court to grant the following:
4 Petitioner respectfully requests that this order Petitioner's immediate release; or
5 in the alternative, order Respondents to provide a bond hearing within 7 days;
6 require the Government to bear the burden of proof by clear and convincing
7 evidence; declare Petitioner's detention unconstitutional.

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10 DATED: June 15, 2026,

Respectfully submitted

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13 Naira Zohrabyan
14 Attorney for Petitioner
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ZOHRABYAN
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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO MOTION TO ENFORCE JUDGMENT using the CM/ECF system.

DATED: June 15, 2026,

Respectfully submitted



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