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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Mohammad EIVAZI

Petitioner,

v.

Christopher J. LAROSE, Warden, Otay Mesa Detention Center;
Daniel A. BRIGHTMAN, Field Office Director, San Diego Field Office, United States Immigration and Customs Enforcement;
Todd M. LYONS, Acting Director, United States Immigration and Customs Enforcement;
Markwayne MULLIN, Secretary of Homeland Security;
Todd BLANCHE, Acting Attorney General, in their official capacities,

Respondents.

Case No.: '26CV2469 JES SBC

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Petitioner, Mohammad Eivazi, 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

1. Petitioner Mohammad Eivazi is a noncitizen who seeks immediate release from custody because Respondents have held him in detention for over 13 months—a prolonged and constitutionally unreasonable period—without any individualized custody hearing.

2. 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").

3. Petitioner specifically seeks immediate release rather than a remand for an immigration-court bond hearing because he received withholding of removal under 241(b)(3)(B) of the Immigration and Nationality Act ("INA"), prohibiting his removal back to Iran. Additionally, in the current landscape, a bond hearing would be a futile and inadequate remedy. Post-habeas bond hearings in prolonged-detention cases are frequently assigned to the same immigration judges whose earlier custody determinations have already been called into question, and those judges often approach such hearings with a predisposition to preserve detention rather than to conduct a genuinely individualized assessment. As documented in recent federal litigation, including an Eastern District of Virginia order addressing the post-habeas bond, the immigration judge issued a cursory, boilerplate decision that recycled prior detention rationales, relied on speculative and unsupported assertions of flight risk, and disregarded substantial evidence of community ties and appearance history. *See Chavarria-Mejia v. Crawford, No. 1:25-cv-01234*, slip op. at *5 (E.D. Va. Jan. 15, 2025).

4. Exhibits 11-14 attached to this petition further document a broader, nationwide trend in similar post-habeas bond hearings: IJs employ nearly identical language across cases, ignore favorable evidence, and invoke generic "flight-risk" labels that are not

tethered to the individual's record, resulting in effectively predetermined outcomes that rubber-stamp continued detention rather than serving as meaningful checks on executive confinement. In light of that entrenched pattern of bias and arbitrary decision-making, ordering only a bond hearing here would subject Petitioner to additional delay and continued incarceration before a tribunal that has shown systemic bias in favor of detention in prolonged-detention cases, and would not cure the ongoing due-process violation.[1]

5. 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").

6. Petitioner respectfully requests that this Court issue the Writ of Habeas Corpus commanding Respondents to immediately release him from custody and enjoin Respondents from re-detaining him without notice to his counsel and a pre-deprivation hearing before a neutral decision-maker at which Respondents must prove material changes in circumstances justify re-detention.

CUSTODY

7. Petitioner is currently in Respondents' legal and physical custody. 28 U.S.C. § 2241(c)(3).

[1] The structural bias concerns in Petitioner's case do not arise in a vacuum. Investigative reporting has documented how the executive branch reshaped the IJ makeup by aggressively hiring IJ with enforcement-heavy professional backgrounds, imposing case-completion quotas, and removing or reassigning judges perceived as too protective of noncitizens' rights, all with the express goal of "speeding up deportations." *See* Nicholas Nehamas, et al,, *How Trump Purged Immigration Judges to Speed Up Deportations*, N.Y. Times (Apr. 9, 2026), https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html?unlocked_article_code=1.ZlA.JJNG.txwMTdEzjRn7&smid=url-share(attached as Ex. 11). That reporting describes removal, non-renewal, and pressure campaigns against immigration judges viewed as insufficiently stringent, and the resulting chilling effect on impartial adjudication. This broader context reinforces why post-habeas bond hearings conducted by immigration judges operating within that system—often the same judges whose prior detention decisions are under scrutiny—cannot be presumed to offer neutral, meaningful review in prolonged-detention cases such as Petitioner's.

8. They are currently detaining him at the Otay Mesa Detention Center in Otay Mesa, California. He is under Respondents' and their agents' direct control.

JURISDICTION

9. 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, 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).

10. The historical "core" of habeas includes review of the legality of executive detention and, when appropriate, ordering release. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (at habeas's "historical core," the writ served to review the legality of "executive detention"); *see also Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211-12 (9th Cir. 2011)).

11. 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.

12. 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.

13. 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).

14. 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 claims" as detention claims that are not channeled in the same way. *Khalil v. President of the United States*, Nos. 25-2162 & 25-2357, slip op. at 28-29 (3d Cir. Jan. 15, 2026).

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

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

VENUE

17. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because at least one Respondent is in this District, Petitioner is detained in this District, Petitioner's immediate physical custodian is located in this District, and a substantial part of the events giving rise to the claims in this action have taken place in this District.

PARTIES

18. Petitioner is currently detained by the Respondents at the Otay Mesa Detention Center, an immigration detention facility in Otay Mesa, California. He has been in Immigration and Customs Enforcement (ICE) custody since on or about December 13, 2024. His case is currently pending appeal before the Board of Immigration Appeals (BIA).

19. Respondent Christopher J. Larose is the Senior Warden at the Otay Mesa Detention Center, where Petitioner is being held. Respondent Larose is Petitioner's immediate custodian. Petitioner sues him in his official capacity.

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

21. Respondent Todd M. Lyons is the Acting Director of ICE. ICE is a component of the U.S. Department of Homeland Security, 6 U.S.C. § 271, and an "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is detaining Petitioner. Respondent Lyons has custodial authority over Petitioner, who names him in his official capacity.

22. Respondent Markwayne Mullin is the Secretary of DHS. DHS is the federal agency responsible for enforcing immigration laws and granting immigration benefits. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent Mullin has ultimate custodial authority over Petitioner, who names him in his official capacity.

23. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Immigration and Nationality Act's implementation and enforcement (*see* 8 U.S.C. §§ 1103(a)(1), (g)) and oversees the Executive Office for Immigration Review. Petitioner names him in his official capacity.

STATEMENT OF FACTS

24. Petitioner is a 21-year-old national and citizen of Iran. He was born there in [redacted] 2004.

25. Petitioner entered the United States on or about February 26, 2025, at or near Jamul, California. He fled Iran to seek asylum in the United States due to his experiences of torture and persecution by government forces because of his political opinion and ethnicity. Petitioner has been detained ever since.

26. Petitioner was in Respondents' custody since on or about February 26, 2025, but he did not receive a Convention Against Torture ("CAT") Interview until April 2, 2025. On April 2, 2025, he received a positive CAT interview determination, stating it was more likely than not that he would be tortured if returned to Iran. However, he did not receive a Notice to Appear in front of an Immigration Judge ("IJ").

27. In April 2025, Respondents transferred Petitioner across state lines to San Luis Regional Detention Center in Arizona. This transfer contributed to delays in the progression of removal proceedings. Petitioner did not request, consent to, or cause this transfer. He was then transferred back to Otay Mesa Detention center in July 2025, however on the same day, he was sent back to Arizona. The transfer took approximately 40 hours. He stayed in Arizona until he was transferred back to Otay Mesa in late July 2025.

28. Petitioner filed multiple request forms to appear in front of an IJ. Respondents responded that there was no court date yet, and they would let him know when there is a date. Respondents then informed Petitioner that they tried to remove him to Belgium. Petitioner did not request to be removed to Belgium and does not have residency there. On June 20, 2025, Respondents informed Petitioner that Belgium refused to take Petitioner.

29. After multiple requests, Petitioner finally received a Notice to Appear on July 30, 2025. Petitioner appeared before an IJ for the first time on August 12, 2025, more than five months after entering the U.S. and being detained. He attended multiple Master Calendar Hearings through the end of 2025.

30. Petitioner attended an Individual Calendar Hearing on January 22, 2026. Due to time constraints, the IJ was unable to complete the hearing. Another Individual Calendar Hearing was set for January 28, 2026. Again, the IJ was unable to complete the hearing. A third Individual Calendar Hearing was then set for February 18, 2026. A fourth hearing was set for February 19, 2026, where the IJ granted Withholding of

Removal under INA § 241 (b)(3), finding that the Circumvention of Lawful Pathways ("CLP") rule barred Petitioner's eligibility for asylum.

31. On March 12, 2026, through pro bono counsel, Petitioner timely filed a Notice of Appeal with the BIA, challenging the IJ's order that Petitioner was not eligible for asylum due to the CLP rule and that he the IJ erred in finding Petitioner did not suffer past persecution.

32. Petitioner's BIA appeal remains pending. As of the filing of this Petition, there is no definite timeline for when the BIA will order briefing or issue a decision on Petitioner's appeal, and thus no definite end to his detention in sight.

33. Petitioner has been detained continuously since February 26, 2025—exceeding 13 months as of the filing of this Petition—without ever receiving a bond hearing before an immigration judge at which the government must justify continued detention based on flight risk or danger. *Zadvydas*, 533 U.S. at 718; *Kydrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020).

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

35. Petitioner has not been convicted of any crime in the United States or elsewhere. His background checks have been completed and the government confirmed there were no negative findings.

36. Petitioner does not pose a flight risk. He received withholding of removal and cannot be removed to Iran. The government has not found another country to remove him to. He is actively appealing the IJ's decision barring him from asylum eligibility. He has a strong incentive to pursue this appeal to receive asylum. He has identified a sponsor in the U.S. who agrees to insure he complies with all ICE check ins and future court hearings if needed.

37. Petitioner does not pose a danger to the community. There is no evidence in the record suggesting that he has engaged in any violent or dangerous conduct. He was

granted withholding of removal after the government completed background checks and found no negative information.

38. Despite the absence of any individualized determination regarding Petitioner's risk or dangerousness, Respondents continue to detain him indefinitely after he received withholding of removal, and while his appeal is pending before the BIA.

39. As of the filing of this Petition, there is no definite timeline for when the BIA will order a briefing schedule or issue a decision on Petitioner's appeal, and thus no definite end to his detention in sight.

EXHAUSTION OF REMEDIES

40. Exhaustion in habeas is prudential, not jurisdictional. *See Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).

41. A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (*quoting Laing v. Ashcroft*, 370 F.3d 993, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).

42. Exhaustion should be waived because Respondents assert Petitioner is subject to mandatory detention and Immigration Judges in this procedural posture typically conclude they lack authority to hold a custody redetermination hearing, rendering administrative efforts futile.

43. Moreover, every day that Petitioner remains detained causes him harm that cannot be repaired. His continued detention puts his mental health at greater risk, further warranting a finding of irreparable harm and the waiver of the prudential exhaustion requirement.

44. His continued prolonged detention has caused severe anxiety and depression. He is now taking medication for anxiety and depression.

45. The Court must consider the effects of prolonged detention on Petitioner in its irreparable harm analysis. *See De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 U.S.

Dist. LEXIS 9851, at *5, *10 (N.D. Cal. Jan. 21, 17 2020) (noting that the petitioner "continues to suffer significant psychological effects from his detention, including anxiety caused by the threats of other inmates and two suicide attempts," in finding that petitioner would suffer irreparable harm warranting waiver of exhaustion requirement).

LEGAL FRAMEWORK

Statutory Detention Authority

46. 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

47. 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.

48. 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).

49. 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.

50. 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.

51. 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) (citations omitted); *Padilla v. ICE,* 704 F. Supp. 3d 1163, 1171-72 (W.D. Wash. 2023).

52. 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

53. 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. See 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,* 499 F. Supp. 3d at 773-74).

54. Under that six-factor framework, courts consider: "(1) the total length of detention to date (2) the likely duration of future detention (3) 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." *See Banda,* 385 F. Supp. at 1106 (internal citations omitted).

55. 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 U.S. Dist. LEXIS 19033, at *13 (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 a bond hearing."); *Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 U.S. Dist. LEXIS 222822, at *11-12 (S.D. Cal. Nov. 12, 2025); *Maksin v. Warden, Golden State Annex*, No. 1:25-cv-00955-SKO (HC), 2025 U.S. Dist. LEXIS 200588, at *8 (E.D. Cal. Oct. 9, 2025) ("Several courts including the Third, Sixth, and Ninth Circuit, as well as numerous district courts, have found that unreasonably long detention periods may violate the due process clause." (collecting cases)); *Abdul-Samed v. Warden of Golden State Annex Det. Facility*, No. 1:25-CV-00098-SAB-HC, 2025 U.S. Dist. LEXIS 142973, at *16 (E.D. Cal. July 24, 2025) ("[E]ssentially all district courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, 'will—at some point—violate the right to due process.'" (quoting *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 2019 WL 5968089, at *6 (W.D. Wash. May 23, 2019), report and recommendation adopted, No. 18-CV-01669-RAJ, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019))).

Bond Hearing Framework and Its Limitations Here

56. In ordinary circumstances, where mandatory detention has become unreasonably prolonged, due process requires that Petitioner receive "a prompt and individualized bond hearing." *See Banda*, 385 F. Supp. 3d at 1106.

57. At such a hearing, the Government must justify continued detention "by a showing of clear and convincing evidence that Petitioner would likely flee or pose a danger to the community if released." *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), abrogated on other grounds by *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *see also Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024).

58. Petitioner's case, however, arises against an evidentiary record demonstrating that, in practice, post-habeas bond hearings in prolonged-detention cases frequently fail to provide the meaningful protection due process requires, in an immigration-court

system that has itself been reshaped to prioritize rapid removals and high denial rates. In *Perez Velasquez v. Bondi*, No. 26-cv-01759-GPC-DDL slip op., (S.D. Cal. April. 16, 2026) the court found that the IJ who conducted the post-habeas bond hearing abused her discretion when she failed to apply any of the *Guerra* factors and ignored all evidence in Petitioner's favor. *Perez Velasquez*, slip op. at *10-11. In *Chavarria-Mejia*, the court found that the IJ who conducted the post-habeas bond hearing issued a cursory, boilerplate decision that recycled prior detention rationales, relied on speculative and unsupported assertions of flight risk, and disregarded substantial evidence of the petitioner's community ties and appearance history—treating the hearing as an exercise in ratifying continued detention rather than engaging in a fresh, individualized analysis. *Chavarria-Mejia*, slip op. at *5.

59. Here, the Courts' findings in *Perez Velasquez* and *Chavarria-Mejia*, and the structural pressures documented in the attached exhibits show that post-habeas bond hearings are routinely biased, boilerplate, and predisposed to continued detention; in this context, a bond hearing would be futile to cure Petitioner's prolonged, unlawful confinement, and he therefore seeks the traditional habeas remedy of immediate release, with any future re-detention permitted only upon notice to counsel and a pre-deprivation hearing before a neutral decision-maker based on materially changed circumstances and a constitutionally adequate burden of proof.

60. This combination of case-specific evidence and broader structural context demonstrates that IJs conducting post-habeas bond hearings operate within an institutional environment that systematically favors detention and removal and that has been deliberately configured to accelerate deportations. In light of this established track record, Petitioner has a well-founded basis to expect that a bond hearing in his case would be conducted by an adjudicator predisposed to preserve detention, would replicate the same defects identified in *Chavarria-Mejia* and the attached exhibits, and would not function as an effective safeguard against arbitrary deprivation of liberty.

61. Because a bond hearing in this context is likely to be biased, perfunctory, and outcome-determinative in favor of detention, it would not cure the constitutional injury Petitioner presently suffers from more than thirteen months of confinement without a neutral, effective review. The traditional habeas remedy of release—squarely within the historical core of habeas jurisdiction—therefore provides the only meaningful relief capable of stopping the ongoing due-process violation.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Fifth Amendment Due Process Violation - Prolonged Mandatory Detention Without Bond Hearing

62. Petitioner re-alleges and incorporates by reference paragraphs 1-61 above as if fully set forth herein.

63. Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii) and has remained continuously detained since on or about February 26, 2025—now exceeding 13 months—without any individualized custody or bond hearing.

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

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

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

67. Whether § 1225(b) detention has become unreasonably prolonged is assessed under a fact-intensive balancing test considering (1) length of detention; (2) likely future

duration; (3) conditions; (4) detainee-caused delay; (5) government-caused delay; and (6) likelihood of a final removal order. *Banda*, 385 F. Supp. 3d at 1106.

68. Applying these factors, Petitioner's detention has become unreasonably prolonged and arbitrary.

69. First, Petitioner has already been detained for over 13 months. Courts have found detentions of similar and shorter duration without a bond hearing weigh toward a finding that they are unreasonable. *See, e.g., Gao v. LaRose*, No. 25-CV-2084-RSH-SBC, 2025 U.S. Dist. LEXIS 190572, at *10 (S.D. Cal. Sept. 26, 2025) (over ten months); *Masood v. Barr*, No. 19-CV-07623-JD, 2020 U.S. Dist. LEXIS 4809, at *9 (N.D. Cal. Jan. 8, 2020) (nearly nine months); *Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (over seven months); *Brissett v. Decker*, 324 F. Supp. 3d 444, 452 (S.D.N.Y. 2018) (over nine months).

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

71. Third, Petitioner is detained at the Otay Mesa Detention Center, a jail-like detention center where he is confined with restricted liberty and limited contact with the outside world, including his counsel. The conditions are punitive in nature, despite the civil character of immigration detention. Every day of Petitioner's prolonged detention takes an incalculable toll on his mental and physical health. His mental health has suffered to the point that he now needs medication for depression and anxiety.

72. Fourth, Petitioner has not caused any delays in his proceedings. Conversely, he submitted multiple requests to see an IJ in order to accelerate his heavily delayed proceedings. He appeared at every scheduled hearing and cooperated with the removal proceedings process throughout.

73. Fifth, delays in Petitioner's proceedings were substantially caused by the government, not Petitioner. Petitioner entered the U.S. in February 2025 and was immediately detained. He only received a CAT interview in April 2025. He received a positive CAT interview finding on April 2, 2025. Respondents then transferred Petitioner back and forth between Arizona and Otay Mesa without providing a reason for the transfers. In an attempt to receive any kind of hearing before a judge, Petitioner filed multiple requests to the government asking for an NTA and a hearing. The government continued to provide the same vague answer; that ICE does not have a hearing date yet and they will let him know when there is a hearing date. The government then attempted to remove Petitioner to Belgium causing further delay. Petitioner did not request removal to Belgium and has no ties with the country. These government caused delays continued for months until Petitioner received an NTA on July 30, 2025. The government caused additional delays once Petitioner attended his first Individual Calendar Hearing. Due to government created time constraints on hearings, the IJ was unable to complete the Individual Calendar Hearing after three sessions. It took four hearings to complete.

74. Finally, the likelihood of a final removal order is low in this case. Petitioner received withholding of removal and cannot be removed to Iran. The government has not identified another country for removal. Petitioner has already received an immigration benefit and the likelihood of a final removal order to another country is low. Respondents already attempted to remove Petitioner to another country and failed. Additionally, Petitioner is appealing the IJ's decision that he is barred from receiving asylum due to the CLP rule. Petitioner is challenging both the legality of the CLP rule and that he is eligible for a rebuttal to the rule.

75. These factors weigh in favor of finding Petitioner's detention unreasonable and unconstitutional.

76. Under ordinary circumstances, these factors would entitle Petitioner at minimum to a prompt, individualized bond hearing at which the government must justify

continued detention by clear and convincing evidence of danger or flight risk. *Banda*, 385 F. Supp. 3d at 1106; *Singh*, 638 F.3d at 1203.

77. Here, however Petitioner seeks the traditional habeas remedy of immediate release from custody. Not only has Petitioner already been granted withholding of removal, but the factual record demonstrates that bond hearings for similarly situated detainees are routinely conducted by IJs who recycle prior custody rationales, issue boilerplate decisions, and invoke generic "flight-risk" labels divorced from the individual's history of appearance and community support, all within an institutional culture that has been deliberately reshaped to favor rapid deportations and disfavor decisions perceived as lenient.

78. Given this entrenched pattern of bias and arbitrary decision-making, a bond hearing in Petitioner's case would be futile and inadequate to remedy the constitutional violation arising from his prolonged confinement. Petitioner therefore seeks the traditional habeas remedy of immediate release from custody, while recognizing that Respondents may seek re-detention only after providing notice to counsel and a pre-deprivation hearing before a neutral decision-maker at which they must demonstrate materially changed circumstances and satisfy a constitutionally adequate burden of proof.

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

SECOND CAUSE OF ACTION
Fifth Amendment Due Process Violation - Arbitrary and Unreasonable Government-Caused Delay

80. Petitioner re-alleges and incorporates by reference paragraphs 1-61 above as if fully set forth herein.

81. Petitioner has been detained under 8 U.S.C. § 1225(b)(1)(B)(ii) since on or about February 2025, after receiving withholding of removal, and remains confined at Otay

Mesa Detention Center while his appeal remains pending before the BIA with no timeline for a decision.

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

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

84. Petitioner has been detained for over 13 months, and the length of his proceedings has been driven by significant government-caused delay rather than any action by Petitioner. As discussed above, it took the government over five months to issue Petitioner an NTA. Petitioner was detained for the entire period and was moved back and forth from Arizona to Otay Mesa with no justification, further delaying the process. They attempted to remove him to Belgium without success. When he finally received an Individual Hearing Calendaring hearing, government created time constraints caused the hearing to be continued three times.

85. These government-driven delays have directly extended Petitioner's civil confinement under § 1225(b) while he has diligently pursued his claims and complied with all obligations, transforming continued detention into an arbitrary restraint on liberty in violation of the Fifth Amendment.

86. Because Petitioner's continued detention has been materially prolonged by government-caused delays—contrary to the BIA's expedited detained-appeal framework and without any individualized justification tied to danger or flight risk—Respondents are violating Petitioner's Fifth Amendment due process rights, and habeas relief is warranted. *See Banda*, 385 F. Supp. 3d at 1106.

PRAYER FOR RELIEF

Petitioner asks this Court to grant the following relief:

1. Assume jurisdiction over this matter;

2. Order Respondents to show cause why the writ should not be granted as to Petitioner within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. 2243;

3. Enjoin Respondents from transferring Petitioner out of the jurisdiction during the pendency of the habeas petition;

4. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner from immigration custody;

5. In the alternative, and only if the Court concludes that immediate release is not warranted on this record, order Respondents to provide a prompt *individualized* bond hearing before a *neutral* adjudicator, at which the Government bears the burden, by clear and convincing evidence, of proving that Petitioner is either a danger to the community or a flight risk, and require the adjudicator to issue a reasoned, written decision addressing all material evidence;

6. Order Respondents to return all of Petitioner's belongings, including his identification documents;

7. Enjoin Respondents from further detaining him without providing notice to the Court and Petitioner's counsel, and a hearing at which Respondents prove changed circumstances regarding his dangerousness or risk of flight warrant his detention;

8. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment. *See Kydyrali*, 499 F. Supp. 3d at 772-74; and

9. Grant such further relief as this Court deems just and proper.

Dated: April 18, 2026

Respectfully submitted,

By:/s/ Chantal Venter
Chantal Venter

Attorney for Petitioner

TABLE OF EXHIBITS

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I, Chantal Venter, do depose and state:

I represent Petitioner Mohammad Eivazi in these habeas corpus proceedings. Petitioner is currently being held in detention at the Otay Mesa Detention Center and is not able to appear in my office to sign this Verification. I have reviewed the record of his detention and discussed this matter with him. I verify that the information contained in the foregoing petition is true and correct to the best of my knowledge and belief.

Dated: April 18, 2026

Respectfully submitted,

By: /s/ Chantal Venter
Chantal Venter

Attorney for Petitioner