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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Nikolai PELEVIN

Petitioner,

v.

Sixto MARRERO, Warden, Imperial Regional Detention Facility;
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.: '26CV2477 LEK AHG

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

Petitioner Nikolai Pelevin 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 Nikolai Pelevin is a noncitizen who seeks immediate release from custody because Respondents have held him at the Imperial Regional Detention Facility for over 15 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, 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 7-10 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. Petitioner's 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 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 to justify re-detention.

CUSTODY

[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. 7). 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.

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

8. Respondents are detaining him at Imperial Regional Detention Facility in Calexico, 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 Nikolai Pelevin is currently detained by the Respondents at the Imperial Regional Detention Facility, an immigration detention facility in Calexico, California. He has been in Immigration and Customs Enforcement (ICE) custody since

December 31, 2024. His case is currently pending appeal before the Board of Immigration Appeals (BIA).

19. Respondent Sixto Marrero is the Senior Warden at the Imperial Regional Detention Facility, where Petitioner is being held. Respondent Marrero 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 the Department of Homeland Security (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 22-year-old national and citizen of Russia. He was born there in [redacted] 2003.

25. Petitioner entered the United States on or about December 31, 2024, at the Calexico, California Port of Entry. He entered with a CBPOne appointment. He waited

in Mexico for approximately nine months to get the CBPOne appointment. He fled Russia to seek asylum in the United States based on his political opinion and experiences of torture and persecution by government forces. Petitioner has been detained at the Imperial Regional Detention Facility ever since.

26. Petitioner appeared pro se before the Immigration Judge ("IJ") on multiple occasions in early 2025. The Individual Merits Hearing went forward on July 9, 2025. The IJ, however, did not have sufficient time to complete the hearing. The immigration court reconvened on July 30, 2025, for a continued Individual Merits Hearing. The IJ denied all applied for relief on July 30, 2025. Petitioner appeared pro se throughout the proceedings in Immigration Court, with limited English proficiency, and while detained.

27. Through pro bono counsel, Petitioner timely filed an appeal with the BIA on August 18, 2025. Challenging the IJ's adverse credibility determination and asserting he did not receive a full and fair trial. On February 11, 2026, the BIA dismissed the appeal. Petitioner, through pro bono counsel, filed a petition for review of the BIA decision to the U.S. Court of Appeals for the Ninth Circuit on February 11, 2026.

28. Petitioner's Ninth Circuit appeal remains pending. As of the filing of this Petition, a date for oral argument has not been set. There is no definite timeline for when the Ninth Circuit will issue a decision on Petitioner's appeal, and thus no definite end to his detention in sight.

29. Petitioner has been detained continuously since December 31, 2024—exceeding 15 months as of the filing of this Petition—without ever receiving a bond hearing before an IJ 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). . Petitioner has not moved for custody redetermination because he was designated as an arriving alien and IJs have consistently ruled that they do not have jurisdiction to redetermine custody of arriving aliens.

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

31. Petitioner has not been convicted of any crime in the United States or elsewhere.

32. Petitioner does not pose a flight risk. He has identified a sponsor in the United States, and demonstrated his willingness to comply with removal proceedings by appearing at every scheduled hearing, despite continuances and appearing pro se.

33. 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.

34. Despite the absence of any individualized determination regarding Petitioner's risk or dangerousness, Respondents continue to detain him indefinitely while his appeal is pending.

35. As of the filing of this Petition, there is no definite timeline for when the Ninth Circuit will order a date for oral argument or issue a decision on Petitioner's appeal, and thus no definite end to his detention in sight.

EXHAUSTION OF REMEDIES

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

37. 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)).

38. 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.

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

40. 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

41. 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

42. 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.

43. 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).

44. 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.

45. 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.

46. 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).

47. 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

48. 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).

49. 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).

50. 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

51. 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.

52. 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).

53. 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.

54. 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.

55. 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.

56. 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 eighteen 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

57. Petitioner re-alleges and incorporates by reference paragraphs 1-56 above as if fully set forth herein.

58. Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(1)(B)(ii) and has remained continuously detained since December 31, 2024—now exceeding 15 months—without any individualized custody or bond hearing.

59. 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.

60. *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).

61. 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.

62. 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.

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

64. First, Petitioner has already been detained for over 15 months. Courts have found detentions of 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).

65. 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 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").

66. Third, Petitioner is detained at the Imperial Regional Detention Facility, a jail-like detention center where he is confined with restricted liberty and limited contact with the outside world, including his counsel. He was unable to obtain all necessary evidence to support his asylum claim due to his detention. 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.

67. Petitioner's eyesight deteriorated significantly in detention to the point that he now needs glasses. After seeing a doctor, it took the detention center approximately three months to provide Petitioner with glasses.

68. Fourth, Petitioner has not caused any delays in his proceedings. Despite appearing pro se, he appeared at every scheduled hearing and cooperated with the removal proceedings process throughout. This included timely filing his own asylum application and supporting evidence.

69. Fifth, delays in Petitioner's proceedings were substantially caused by the government, not Petitioner. Petitioner entered the U.S. in December 2024, his first Individual Calendar Hearing was on July 9, 2025. Due to time constraints, the IJ did not have sufficient time to complete the hearing. Thus, a second Individual Calendar Hearing was scheduled for July 30, 2025. Petitioner timely filed a Notice of Appeal on August 18, 2025. On February 11, 2026, the BIA dismissed the appeal. Petitioner, through pro bono counsel, filed a petition for review of the BIA decision to the Ninth Circuit Court of Appeals on February 11, 2026. Petitioner's Ninth Circuit appeal remains pending. As of the filing of this Petition, a date for oral argument has not been set. There is no definite timeline for when the Ninth Circuit will issue a decision on Petitioner's appeal, and thus no definite end to his detention in sight.

70. Finally, Petitioner has a pending appeal challenging the IJ's decision. His appeal raises substantive questions about the IJ's erroneous negative credibility finding; her failure to assist in developing the factual record as an IJ is required to for pro se cases; her failure to engage with country condition reports; and a violation to Petitioner's due process protections. Thus, he may likely prevail on his appeal and have his case remanded for further proceedings.

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

72. 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.

73. Here, however, 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.

74. 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.

75. In the alternative, Petitioner seeks a bond hearing. At that hearing, the Government must justify continued detention by clear and convincing evidence that Petitioner is a flight risk or danger. *Singh*, 638 F.3d at 1203.

76. 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

77. Petitioner re-alleges and incorporates by reference paragraphs 1-56 above as if fully set forth herein.

78. Petitioner has been detained under 8 U.S.C. § 1225(b)(1)(B)(ii) since December 31, 2024, and remains confined at Imperial Regional Detention Facility while his appeal remains pending before the Ninth Circuit with no timeline for a decision.

79. 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.

80. 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).

81. Petitioner has been detained for over 15 months, and the length of his proceedings has been driven largely by government-caused delay rather than any action by Petitioner. Petitioner entered the U.S. in December 2024, his first Individual Calendar Hearing was on July 9, 2025. Due to government created time constraints on the hearing, the IJ was unable to complete the hearing. The second Individual Calendar Hearing was on July 30, 2025. As a detained, pro se, limited-English speaker, Petitioner was ordered removed. Petitioner timely filed his Notice of Appeal in August 2025. On February 11, 2026, the BIA dismissed the appeal. Petitioner, through pro bono counsel, timely filed a petition for review of the BIA decision to the Ninth Circuit Court of Appeals on February 11, 2026. There is no stated timeline for a Ninth Circuit decision.

82. 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.

83. 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, 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 Nikolai Pelevin in these habeas corpus proceedings. Petitioner is currently being held in detention at the Imperial Regional 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