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

GENESIS ESCALONA RAMIREZ,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, CHRISTOPHER LAROSE,
Warden at Otay Mesa Detention Center,

Respondents.

Case No.: 26-cv-2525-JLS-VET

**Traverse in support of amended
petition for a
writ of habeas corpus**

I. Introduction

Ms. Escalona Ramirez has been detained without an individualized assessment of whether she is a flight risk since September 18, 2025. Last month, an immigration judge granted her asylum. But because the Department of Homeland Security has appealed, she will remain detained during the entirety of that appeal. The BIA has yet to set a briefing schedule. Under any factor test, due process requires Ms. Escalona Ramirez receive a bond hearing, if not outright release.

II. Due process requires an individualized bond hearing.

The government makes three core arguments in its return. Each lacks merit.

First, the government argues that this Court lacks jurisdiction. Ms. Escalona Ramirez explained why that is not so in her amended petition. *See* ECF No. 7 at 2–3; *see, e.g., Gao v. LaRose*, 805 F. Supp. 3d 1106, 1108–09 (S.D. Cal. 2025) (explaining why this Court has jurisdiction over § 2241 petitions challenging mandatory detention under 28 U.S.C. § 1225(b)(1)).

Second, the government argues that Ms. Escalona Ramirez has “no due process right” to a bond hearing or release. ECF No. 14 at 8. It relies on two cases that do not support that assertion, but instead articulate the entry fiction doctrine, *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), and *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020). ECF No. 14 at 6–8.

As this and other courts have explained, neither the doctrine nor the cases address the due process constraints on *detention*. “*Mezei* involved a noncitizen who was permanently excluded from the United States on security grounds, not a detainee raising their due process rights in the context of detention without a bond hearing.” *Amado v. U.S. Dept. of Justice*, 2025 WL 3079052, *5 (S.D. Cal. Nov. 4, 2025) (collecting cases). And “*Thuraissigiam* addressed a noncitizen’s right to challenge admission, not detention.” *Id.* (collecting cases). “At least five circuit courts have all since considered due process challenges to unreasonably prolonged mandatory detention under [another immigration statute] § 1226, and, tellingly, none of them referenced *Thuraissigiam* in their majority opinions.” *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 683 (W.D. Tex. 2025). As it stands, “the entry fiction doctrine does not trump the constitutional issues raised here.” *Kydrali v. Wolf*, 499 F. Supp. 3d 768, 771 (S.D. Cal. 2020).

“[G]uided by basic notions of due process gleaned from recent Supreme Court and Ninth Circuit case law,” this Court should “join[] the majority of courts across the country in concluding that an unreasonably prolonged detention under

1 8 U.S.C. § 1225(b) without an individualized bond hearing violates due process.”
2 *Id.* at 772; *accord Naseif v. LaRose*, No. 26-cv-30-RSH-BJW, 2026 WL 161415,
3 *2 (S.D. Cal. Jan. 21, 2026) (collecting cases).

4 Third, and finally, the government argues that Ms. Escalona Ramirez’s 8-
5 and-a-half month detention is not prolonged, but “acknowledge[s] that . . . the
6 likely length of detention and the cause of delays in the removal proceedings,
7 weigh against the Respondents.” ECF No. 14 at 9.

8 The government’s remaining factor-balancing arguments are not
9 persuasive. Most notably, the government ignores that, recently, “[c]ourts have
10 found that detention over seven months without a bond hearing weighs toward a
11 finding that it is unreasonable.” *Amado*, 2025 WL 3079052 at *5.

12 Indeed, the government mostly does not dispute that the remaining *Banda*
13 factors favor Ms. Escalona Ramirez. *See Banda v. McAleenan*, 385 F. Supp. 3d
14 1099, 1111 (W.D. Wash. 2019). The conditions of detention, the government’s
15 delay, and the likelihood that removal proceedings will result in a different final
16 order *all* warrant a bond hearing or outright release, as Ms. Escalona Ramirez
17 explained in her amended petition. *See* ECF No. 14 at 9–10 (not addressing
18 conditions of detention or likelihood of removal proceedings resulting in asylum);
19 ECF No. 7 at 6–7 (explaining why these factors favor Ms. Escalona Ramirez).

20 Instead, the government argues only “while the likely duration of future
21 detention is due to the Respondents’ appeal, Respondents do not control how long
22 the appeal will take.” ECF No. 14 at 9. This is incorrect. Respondents include the
23 Acting Attorney General, who has direct control over the Board of Immigration
24 Appeals, and who thus has control over how long the appeal will take. *See also*
25 *Banda*, 385 F. Supp at 1120 (“regardless of which agency caused the delay, it is
26 attributable to the Government, not petitioner”).
27
28

1 Under any factor-balancing test, Ms. Escalona Ramirez should receive
2 either an individualized bond hearing or outright release.

3
4 Respectfully submitted,

5 Dated: May 27, 2026

/s/ Jessie Agatstein

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