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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SAKIROU BOUKOUBONGUE, Petitioner, v. JEREMY CASEY, *Warden, Imperial Regional Detention Facility* Respondents.	Case No. 26-cv-02491-JO-VET **SUPPLEMENTAL BRIEFING RE: ORDER ECF NO. 16**

On June 4, 2026, the Court issued an order directing "Respondents to file supplemental briefing by June 12, 2026 identifying and addressing any individualized concerns regarding Petitioner's danger to the community or flight risk, including the factual basis for any such concerns." ECF No. 16. Respondents provide the following information pursuant to the Court's June 4, 2026 order.

Petitioner was detained for unlawful entry when he unlawfully entered the United States from Mexico. *See* Exhibit 1 (I-213). Petitioner admitted to illegally crossing the international border without being inspected by an immigration officer at a designated Port of Entry. *Id.* There is no information presented that Petitioner has any potential professional connections inside the United States. *Id.* Furthermore, an immigration judge denied all forms of relief, making an adverse credibility finding, and ordered Petitioner to be removed. *See* Exhibit 2; Exhibit 3 (filed under seal). Petitioner continues to be subject to mandatory detention under 8 U.S.C. § 1225(b). *See Jennings v. Rodriguez*, 583 U.S. 281 (2018).

Regarding the appropriate remedy in this case, Respondent's contend that in a case where Petitioner's detention is mandated by 8 U.S.C. § 1225(b) and that the detention has become prolonged, and where the Court determines that a remedy is required, the appropriate remedy is an individualized bond hearing, not immediate release.

Here, even assuming Petitioner's detention has become constitutionally problematic due to its duration, the Supreme Court has made it clear that Congress authorized detention under 8 U.S.C. § 1225(b). Section 1225(b) "mandate[s] detention of applicants for admission until [removal] proceedings have concluded." *Jennings*, 583 U.S. at 297. Once removal proceedings end, "detention under [§ 1225(b)] must end as well. Until that point, however, nothing in the statutory text imposes any limit on the length of detention. *Id.* The Supreme Court specifically noted that "[n]othing in the text of §1225(b)(1) or §1225(b)(2) even hints that those provisions restrict detention after six months," and neither statute "says anything whatsoever about bond hearings." 583 U.S. at 297-98; *see Dep't of Homeland Sec. v. Thuraissigiam,* 591 U.S. 103, 107, 140 S. Ct. 1959, 1964 (2020) (reiterating that "an alien at the threshold of initial entry … has no entitlement to procedural rights other than those afforded by statute.").

Prior to the Supreme Court's decision in *Jennings*, the Ninth Circuit "mandated certain procedures for detainees under §§ 1225(b), 1226(c), and 1231(a)(6) as a matter of constitutional avoidance, … premised on the lack of process that was afforded to those aliens *as compared to § 1226(a) detainees*." *Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022) (emphasis in original). The Ninth Circuit has repeatedly held that when due process concerns arise from prolonged immigration detention, the constitutional defect is cured by providing a bond hearing. *See Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013). *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011); *Casas-Castrillon v. Department of Homeland Security*, 535 F.3d at 951–52; *Diouf v. Napolitano*, 634 F.3d at 1091–92. The appropriate remedy therefore is not outright release, but rather the procedural protection necessary to remedy the constitutional deficiency, an individualized bond hearing. Notably, the Ninth Circuit has recently noted that "[b]oth [the Ninth Circuit] and the Supreme Court have repeatedly declined to decide constitutional challenges to bond hearing procedures in the immigration detention context, whether the claims were brought by an alien held under § 1226(a) or another provision." *Diaz*, 53 F.4th at 1203.

Thus, Respondents' position is that this Court should order that Petitioner receive an individualized bond hearing before an immigration judge, where the Department of Homeland Security (DHS) would bear the burden of proof establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight. *See Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520 (S.D. Cal. Nov. 12, 2025); *Gao v. LaRose*, No. 25-cv-2084-RSH-SBC, 2025 WL 2770633 (S.D. Cal. Sept. 26, 2025).

Dated: June 12, 2026

Respectfully submitted,

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