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

MURTADHA ALI ALRIKABI,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of  
the Department of Homeland Security,  
TODD BLANCHE, 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: 3:26-CV-2561-DMS-VET

**Traverse in Support of Petition for  
Habeas Corpus**

Respondents acknowledge that they have detained Murtadha Ali Alrikabi since February 2025. They also acknowledge that it has been more than eight months since Petitioner has received a bond hearing addressing his continued detention. That is sufficient to grant the petition and order that Respondents provide him with another bond hearing.

Respondents' counterarguments fall into two buckets. First, they argue that exhaustion is required because Mr. Ali already got a bond hearing eight months ago and is in the process of appealing that determination. Second, they make the oft-rejected claim that they can detain someone as long as they please under 8 U.S.C. § 1226. Neither passes muster.

1 **I. Exhaustion is not required.**

2 In their return, Respondents correctly admit that the law “does not  
3 specifically require petitioners to exhaust direct appeals before filing petitions for  
4 habeas corpus” because exhaustion to the BIA is “prudential.” Return 5 (quoting  
5 *Castro–Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001)). And Respondents  
6 correctly note that “courts may require prudential exhaustion if (1) agency  
7 expertise makes agency consideration necessary to generate a proper record and  
8 reach a proper decision; (2) relaxation of the requirement would encourage the  
9 deliberate bypass of the administrative scheme; and (3) administrative review is  
10 likely to allow the agency to correct its own mistakes and to preclude the need for  
11 judicial review.” *Id.* (quoting *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir.  
12 2007)). Yet that test favors Mr. Ali.

13 As to the first factor, Respondents only make the generic statement that  
14 “agency expertise is required” because the BIA is “the subject matter expert in  
15 immigration bond decisions.” Return 6. To the extent that is true, it is irrelevant.  
16 Mr. Ali does not challenge a bond determination. He simply argues that a bond  
17 hearing is constitutionally required. Federal courts—not the BIA—are experts in  
18 the constitution. That also makes the third factor irrelevant—there is no mistaken  
19 decision for the agency to correct.

20 Finally, enforcing this Court’s order would not “encourage the deliberate  
21 bypass of the administrative scheme.” *Puga*, 488 F.3d at 815. The best evidence  
22 of that is that Mr. Ali continues to pursue the administrative scheme when it  
23 comes to correcting mistakes in his *prior* bond hearing. But here, there are no  
24 administrative remedies for Mr. Ali to pursue. He seeks a bond hearing, and  
25 Respondents argue that they are required to detain him under § 1226. He thus  
26 needs habeas relief.

27 Because all three *Puga* factors weigh in Mr. Ali’s favor, and because  
28 Respondents have not even attempted to apply those factors to the unique

1 circumstances here, this Court should find that Mr. Ali is not required to exhaust  
2 his administrative remedies.

3 **II. Mr. Ali's prolonged detention violates the Constitution.**

4 Respondents correctly note that § 1226(c) mandates an immigrant's  
5 detention. But the argument that the statute permits perpetual detention without a  
6 bond hearing has been repeatedly rejected. *See, e.g., Maldonado-Romero v. Warden*  
7 *of Imperial Detention Facility*, No. 3:26-CV-02366-RBM-SBC, 2026 WL  
8 1333758, at \*1 (S.D. Cal. May 13, 2026).

9 Furthermore, that Mr. Ali received a bond hearing in August does not give  
10 Respondents license to detain him in perpetuity. To the contrary, habeas courts have  
11 ordered additional bond hearings when a Petitioner has been subjected to prolonged  
12 detention since their last hearing. *See, e.g., Vallejo v. Decker*, No. 18-CV-5649  
13 (JMF), 2018 WL 3738947, at \*3 (S.D.N.Y. Aug. 7, 2018) (holding that "continued  
14 detention without another individualized bond hearing violates [petitioner's] due  
15 process rights"); *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1118 (W.D. Wash.  
16 2019).

17 Indeed, in *Rajnish v. Jennings*, the district court found that that another  
18 hearing was required because in "the nine months since [the last bond hearing],  
19 Rajnish has remained in custody and shown signs of mental illness." No. 3:20-cv-  
20 07819-WHO, 2020 U.S. Dist. LEXIS 241056, at \*2 (N.D. Cal. Dec. 22, 2020). That  
21 makes sense. Courts in this district repeatedly have held that detention of even just  
22 eight months is sufficient to require a bond hearing. "Courts have found detention  
23 over seven months without a bond hearing weighs toward a finding that it is  
24 unreasonable." *Amado v. United States Dep't of Just.*, No. 25CV2687-LL(DDL),  
25 2025 WL 3079052, at \*5 (S.D. Cal. Nov. 4, 2025) (collecting cases). That Mr. Ali  
26 has received a prior hearing—the result of which currently is being appealed—does  
27 not mean he is not due another.  
28

1 This claim was sufficiently pleaded in the pro se petition. It repeatedly  
2 alleged that Respondents violated Mr. Ali's right to due process by subjecting him  
3 to "prolonged detention." Pet. 2. That is a well-recognized claim for which courts  
4 have repeatedly granted habeas relief. And Mr. Ali provided sufficient facts to  
5 review that claim. The government agrees that he has been detained for more than  
6 a year—since February 21, 2025—and that his last bond hearing was in August.

7 This Court should grant the Petition. It should order another bond hearing in  
8 which the government must prove by clear or convincing evidence that Mr. Ali is  
9 a flight risk or a danger to the community.

10  
11 Respectfully submitted,

12 Dated: May 14, 2026

s/ Daniel J. Yadron, Jr.

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