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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

GERARDO GARCIA RAMOS,

Petitioner,

vs.

TODD LYONS, Acting Director of U.S.
Immigration and Customs Enforcement.
500 12th St SW
Washington, DC 20536

CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center

Respondents.

Case No.: '26CV2587 JLS GC

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
ADMINISTRATIVE PROCEDURE
ACT RELIEF
AND APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

INTRODUCTION

Petitioner Gerardo Garcia Ramos seeks limited habeas relief under 28 U.S.C.
§ 2241 challenging the continued fact of his civil immigration detention, which has

1 now persisted for more than twelve months despite repeated custody filings and
2 without meaningful progress toward removal.
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4 This Petition does not seek review of an Immigration Judge's discretionary
5 bond determination, does not request a new bond hearing, and does not ask this
6 Court to impose procedural requirements rejected by the Ninth Circuit in *Rodriguez*
7 *Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022).
8

9 Instead, Petitioner challenges whether the Department of Homeland Security
10 retains constitutional authority to continue detention at all, where custody has
11 become effectively indefinite due to unresolved bond proceedings, a pending bond
12 appeal, and the agency's failure to prosecute removal proceedings with reasonable
13 diligence.
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16 JURISDICTION AND VENUE

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18 This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is
19 confined at Otay Mesa Detention Center within the Southern District of California
20 and challenges the legality of his continued detention. Venue is proper because
21 Petitioner's immediate custodian—the Warden of Otay Mesa Detention Center—
22 is located in this District, and Petitioner's custody is ongoing here.
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25 This Court also has jurisdiction because Petitioner brings a core habeas
26 challenge to the present legality of his physical confinement and seeks release (or
27 other relief directed to the legality of custody), not review of any final order of
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1 removal or the merits of removal proceedings. The jurisdiction-channeling
2 provisions of 8 U.S.C. § 1252 do not bar such detention claims. See *Jennings v.*
3 *Rodriguez*, 583 U.S. 281, 292–95 (2018) (rejecting an overbroad construction of §
4 1252(b)(9) that would foreclose judicial review of claims that are not challenges
5 to removal proceedings or a removal order); *J.E.F.M. v. Lynch*, 837 F.3d 1026,
6 1031–33 (9th Cir. 2016) (discussing scope of § 1252(b)(9) and explaining that it
7 channels claims “arising from” removal proceedings into the petition-for-review
8 process rather than serving as an all-purpose jurisdictional bar).

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12 Consistent with that principle, the Ninth Circuit applies the “core habeas”
13 rules to immigration detainees seeking release from present physical confinement.
14 See *Doe v. Garland*, 109 F.4th 1188, 1197–99 (9th Cir. 2024).

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16 Respondent LaRose, as Petitioner’s immediate custodian, is a proper habeas
17 respondent because he has day-to-day control over Petitioner’s detention.
18 Respondent Lyons is also properly named because the challenged custody is
19 maintained by ICE and Petitioner seeks relief that can be effectuated through
20 DHS/ICE officials responsible for immigration detention.
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23 To the extent Respondents contend that Petitioner must exhaust additional
24 administrative remedies, exhaustion in this context is prudential rather than
25 jurisdictional and may be excused. See *Singh v. Napolitano*, 649 F.3d 899, 900–01
26 (9th Cir. 2011) (noting prudential exhaustion for § 2241); *Castro-Cortez v. INS*,
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1 239 F.3d 1037, 1047 (9th Cir. 2001), overruled on other grounds by *Fernandez-*
2 *Vargas v. Gonzales*, 548 U.S. 30 (2006). Petitioner has pursued custody review
3 through repeated filings, and any further administrative process cannot provide
4 timely relief from ongoing unconstitutional detention; requiring further exhaustion
5 would therefore be futile and would prolong the continuing injury.
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8 **NO BAR BASED ON PRIOR HABEAS PROCEEDINGS**

9 Petitioner previously filed habeas petitions challenging earlier periods of
10 immigration detention, which were denied under materially different factual and
11 custodial circumstances. Those petitions addressed detention at earlier stages and
12 under different custodians, in a different judicial district. This Petition challenges
13 Petitioner's current and continuing detention at Otay Mesa Detention Center, based
14 on prolonged detention under 8 U.S.C. § 1226(a), independent procedural due
15 process defects in the bond hearing process, and ultra vires detention in violation
16 of governing law. Because each day of unlawful civil detention constitutes a new
17 constitutional injury and jurisdiction lies with the current custodian, this Petition is
18 not successive and is properly before this Court.
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23 **PARTIES**

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25 Petitioner, Gerardo Garcia Ramos, is currently detained at the Otay Mesa
26 Detention Center in San Diego, California.
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28 Respondent Todd Lyons is Acting Director of U.S. Immigration and

1 Customs Enforcement (ICE). He is sued in his official capacity.

2 Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa
3 Detention Center. He is Petitioner's immediate custodian and is sued in his official
4 capacity.
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6 STATEMENT OF FACTS 7

8 Petitioner is detained by Immigration and Customs Enforcement ("ICE") at
9 the Otay Mesa Detention Center. Petitioner's detention is pursuant to 8 U.S.C. §
10 1226(a); DHS does not contend that Petitioner is subject to mandatory detention
11 under § 1226(c). Petitioner has remained in civil immigration custody for a
12 prolonged period. Although Petitioner previously received a bond hearing, the
13 hearing did not satisfy constitutional minimums and cannot justify continued
14 confinement.
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18 CLAIM ONE — PROLONGED CIVIL DETENTION UNDER 8 19 U.S.C. § 1226(a) VIOLATES DUE PROCESS

20 Detention under § 1226(a) is civil, not punitive, and is constitutionally
21 permissible only so long as it remains reasonable in duration and purpose. When
22 detention becomes unreasonably prolonged, due process requires meaningful
23 safeguards to ensure that continued confinement is justified. Petitioner's detention
24 has become constitutionally excessive, and continued detention without adequate
25 protections violates the Fifth Amendment. See *Rodriguez v. Robbins*, 715 F.3d
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1 1127 (9th Cir. 2013); *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015).

2 **CLAIM TWO — THE BOND HEARING VIOLATED PROCEDURAL**
3 **DUE PROCESS**

4 Even where a noncitizen has received a bond hearing, continued detention
5 is unlawful if the hearing did not provide constitutionally adequate process.
6 Petitioner's bond hearing was procedurally defective because, inter alia: (a) the
7 Government did not bear the burden to justify continued detention by clear and
8 convincing evidence; (b) the adjudicator relied on conclusory assertions rather than
9 individualized evidence; and (c) the decision failed to make individualized findings
10 and consider alternatives to detention. The Ninth Circuit has held that, given the
11 substantial liberty interest at stake in prolonged-detention bond hearings, the
12 Government must prove by clear and convincing evidence that detention is
13 justified. See *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).

14 **CLAIM THREE — CONTINUED DETENTION IS ULTRA VIRES**
15 **UNDER ACCARDI**

16 Agency action taken in violation of binding regulations or governing law is
17 unlawful. Continued detention that rests on categorical rules, unwritten policies, or
18 failure to conduct the individualized custody assessment required by law is ultra
19 vires. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

20 **REQUEST FOR EXPEDITED RELIEF AND TEMPORARY**
21 **RESTRAINING ORDER**

1 Petitioner respectfully requests expedited consideration and a temporary
2 restraining order (“TRO”). The standard for issuing a TRO and a preliminary
3 injunction is substantially identical. See *Stuhlbarg Int’l Sales Co. v. John D. Brush*
4 & *Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A TRO is warranted where the
5 moving party shows: (1) a likelihood of success on the merits; (2) a likelihood of
6 irreparable harm absent preliminary relief; (3) that the balance of equities tips in
7 the movant’s favor; and (4) that an injunction is in the public interest. *Winter v.*
8 *Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). This Court also has authority
9 to enter limited injunctive relief to preserve its jurisdiction and maintain the status
10 quo pending adjudication of this habeas action. See 28 U.S.C. § 1651(a); *FTC v.*
11 *Dean Foods Co.*, 384 U.S. 597, 604 (1966); *Al Otro Lado v. Wolf*, 952 F.3d 999,
12 1006 n.6 (9th Cir. 2020).

13 Notice. Petitioner will provide notice of this TRO application to counsel for
14 Respondents (including the assigned Assistant United States Attorney) as promptly
15 as practicable and will file proof of service and any supporting declaration
16 regarding notice.

17 **I. LIKELIHOOD OF SUCCESS ON THE MERITS**

18 Petitioner is likely to succeed on the merits of his habeas claims. First, his
19 continued detention under 8 U.S.C. § 1226(a) has become unreasonably prolonged
20 and constitutionally excessive. See *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir.

1 2013) (affirming preliminary injunction and holding plaintiffs were likely to
2 succeed on prolonged-detention claim); *Rodriguez v. Robbins*, 804 F.3d 1060 (9th
3 Cir. 2015). Second, the bond process afforded to Petitioner did not satisfy
4 constitutional minimums, including the Government's failure to bear the burden
5 by clear and convincing evidence and the absence of individualized findings, such
6 that the prior hearing cannot justify continued confinement. See *Singh v. Holder*,
7 638 F.3d 1196, 1203–05 (9th Cir. 2011). Third, continued detention that rests on
8 categorical rules, unwritten policies, or failure to conduct the individualized
9 custody assessment required by governing law is ultra vires and unlawful under
10 the Accardi doctrine. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S.
11 260 (1954). At minimum, Petitioner raises serious questions going to the merits
12 and the balance of hardships tips sharply in his favor, warranting emergency relief
13 under Ninth Circuit precedent. See *All. for the Wild Rockies v. Cottrell*, 632 F.3d
14 1127, 1134–35 (9th Cir. 2011); *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th
15 Cir. 2009).

16 17 18 19 20 21 22 **II. IRREPARABLE HARM**

23 Ongoing unlawful physical confinement is irreparable harm. Each additional
24 day that Petitioner remains in civil custody without constitutional authorization
25 constitutes a continuing loss of liberty that cannot be remedied by money damages
26 or later relief. See *Hernandez v. Sessions*, 872 F.3d 976, 995–96 (9th Cir. 2017)
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1 (affirming finding of irreparable harm in § 1226(a) detention context); *Doe v.*
2 *Harris*, 772 F.3d 563, 583 (9th Cir. 2014). Absent immediate injunctive relief and
3 an expedited schedule, Petitioner will continue to suffer an ongoing constitutional
4 injury during the pendency of these proceedings.
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6 Urgency further supports immediate relief. Petitioner's individual hearing in
7 immigration court is currently set for May 8, 2026. Continued detention in the lead-
8 up to that hearing substantially impairs Petitioner's ability to consult with counsel,
9 gather supporting documentation, and prepare witnesses and evidence, thereby
10 compounding the ongoing loss of liberty and creating irreparable, non-
11 compensable harm absent expedited relief.
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15 III. BALANCE OF EQUITIES

16 The equities strongly favor Petitioner. Petitioner faces the severe and
17 ongoing deprivation of liberty from continued civil detention. By contrast, the
18 Government has no legitimate interest in maintaining detention that violates the
19 Constitution or governing law. See *Doe v. Harris*, 772 F.3d 563, 583 (9th Cir.
20 2014). Where the relief sought is narrowly tailored to prevent ongoing unlawful
21 custody and to ensure prompt judicial review, the balance of hardships favors
22 Petitioner.
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26 IV. PUBLIC INTEREST

27 The public interest favors ensuring that the Government complies with the
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1 Constitution and that civil immigration detention remains lawful and reasonably
2 related to its purposes. “*It is always in the public interest to prevent the violation*
3 *of a party’s constitutional rights.*” *Melendres v. Arpaio*, 784 F.3d 1254, 1260 (9th
4 Cir. 2015). Prompt judicial review of serious constitutional claims promotes the
5 integrity of the immigration detention system and safeguards the public’s interest
6 in the rule of law.
7

8 **V. COMPARABLE EMERGENCY RELIEF IN THIS DISTRICT**

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10 Courts in this District have granted emergency or expedited relief in
11 immigration habeas matters, including orders staying removal or setting expedited
12 briefing and hearings to preserve jurisdiction. See, e.g., *Mejia Iriarte v. LaRose*,
13 No. 25-cv-03138-BAS-AHG, Order Granting in Part TRO and Setting Hearing
14 (S.D. Cal. Nov. 20, 2025); *Chavarro Velez v. Warden, Otay Mesa Detention Center*,
15 No. 3:26-cv-01889-JES-MSB, Order Staying Removal and Setting Briefing
16 Schedule (S.D. Cal. Mar. 27, 2026). This District has also ordered prompt custody
17 relief, including immediate release and/or prompt bond hearings, where detention
18 violated due process. See, e.g., *Correa Paiva v. Warden, Imperial Detention*
19 *Center*, No. 3:26-cv-1246-CAB-DDL, Order Granting Writ and Ordering
20 Immediate Release (S.D. Cal. Apr. 8, 2026); *Beltran v. Noem*, No. 3:25-cv-02650,
21 Order Granting § 2241 Relief and Ordering Individualized Bond Hearings under §
22 1226(a) within Seven Days (S.D. Cal. Nov. 4, 2025); *Rowe v. Archambeault*, No.
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1 26-cv-01744-GPC-DEB, Order Granting in Part Petition (S.D. Cal. Mar. 31, 2026);
2 *McSweeney v. Warden of the Otay Mesa Detention Facility*, No. 3:25-cv-02488-
3 RBM-DEB, Order Setting Hearing on TRO (S.D. Cal. Oct. 2, 2025); *Atencio*
4 *Machado v. Director of the Otay Mesa Detention Center*, No. 25-cv-3277-JES-
5 JLB, Order Granting Petition (S.D. Cal. Jan. 16, 2026); *Chen v. Warden of the Otay*
6 *Mesa Detention Center*, No. 3:26-cv-1549-JES-BLM, Order Granting Petition
7 (S.D. Cal. Mar. 20, 2026).
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11 For these reasons, Petitioner respectfully requests that the Court issue a TRO
12 and related expedited relief, including an Order to Show Cause on an expedited
13 schedule, a shortened briefing schedule as necessary, and an expedited hearing.
14 Such relief is narrowly tailored to prevent continuing irreparable harm and to
15 ensure meaningful judicial review of the legality of Petitioner's ongoing civil
16 confinement.
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19 Accordingly, because Petitioner satisfies the *Winter* factors (or, at minimum,
20 the Ninth Circuit's "serious questions" variant), the Court should grant a TRO and
21 enter an expedited schedule that ensures prompt consideration of this Petition and
22 prevents further irreparable loss of liberty while this Court determines the legality
23 of Petitioner's continued civil immigration detention.
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26 RELIEF REQUESTED

27 Petitioner respectfully requests that this Court grant the writ and order
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1 Petitioner's immediate release from ICE custody forthwith. In the alternative, if
2 the Court concludes that release is not warranted on the present record, Petitioner
3 requests an order directing a new bond hearing within seven (7) days before a
4 neutral Immigration Judge, with the Government bearing the burden to prove by
5 clear and convincing evidence that continued detention is necessary, and requiring
6 individualized findings and consideration of alternatives to detention.
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9 Respectfully submitted,

10 April 23, 2026.
11

12 /s/ Marcelo Gondim

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Gerardo Garcia Ramos, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

April 23, 2026.

/s/ Marcelo Gondim

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