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

GERARDO GARCIA RAMOS,

Petitioner,

vs.

TODD LYONS, et al.

Respondents.

Case No.: 3:26-cv-02587-RBM-BJW

**PETITIONER'S TRAVERSE TO
RESPONDENTS' RETURN TO
PETITION FOR WRIT OF
HABEAS CORPUS**

Hon. Ruth Bermudez Montenegro

Petitioner Gerardo Garcia Ramos respectfully submits this Traverse in reply to Respondents' Return (ECF No. 6) and supporting exhibits. Respondents do not dispute the core facts establishing habeas jurisdiction and prolonged detention; instead, they attempt to recharacterize Petitioner's custody as either reasonable per se or insulated from meaningful judicial review. That position is contrary to binding Supreme Court precedent, Ninth Circuit authority, and a growing body of Southern District of California decisions, particularly those authored by Judge

1 Ruth Bermudez Montenegro, who has addressed prolonged-detention habeas
2 challenges under 8 U.S.C. § 1226(a) and emphasized that outcomes often turn on
3 (i) clarity of the relief requested and (ii) whether the petitioner is in fact seeking an
4 impermissible “second bond hearing” after an initial immigration judge bond
5 hearing and pending bond review procedures. As shown below, Respondents’
6 arguments fail as a matter of law. The Court should grant the Petition and provide
7 appropriate relief to ensure that Petitioner is not subjected to prolonged civil
8 detention without access to a timely and meaningful custody-review process
9 consistent with due process and governing Ninth Circuit precedent.
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14 **I. THE COURT HAS HABEAS JURISDICTION TO REMEDY**
15 **PROLONGED IMMIGRATION DETENTION**

16 Respondents’ threshold jurisdictional objections are foreclosed by statute
17 and precedent. Federal district courts retain jurisdiction under 28 U.S.C. § 2241 to
18 review the legality of immigration detention and to order constitutionally required
19 relief where detention violates due process. *Zadvydas v. Davis*, 533 U.S. 678, 687
20 (2001). This jurisdiction exists notwithstanding jurisdiction-stripping provisions
21 where the petitioner challenges the fact or duration of detention rather than the
22 underlying removal order. *Jennings v. Rodriguez*, 583 U.S. 281, 301–03 (2018).
23 The Ninth Circuit has repeatedly reaffirmed that noncitizens subject to prolonged
24 civil detention may seek habeas relief to vindicate due process rights. *Alecsa v.*
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1 *Garland*, 27 F.4th 992, 999 (9th Cir. 2022). Courts in this District routinely
2 exercise such jurisdiction. See, e.g., *Banda v. McAleenan*, 385 F. Supp. 3d 1099,
3 1104 (S.D. Cal. 2019). Judge Bermudez Montenegro has likewise recognized that
4 habeas courts retain authority to order relief tailored to cure constitutional
5 violations arising from prolonged detention. See *Espinoza v. McAleenan*, No.
6 19-cv-1446-GPC-BGS, 2019 WL 10830329, at *4–5 (S.D. Cal. Sept. 27, 2019).
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8 **II. PETITIONER’S DETENTION IS UNCONSTITUTIONALLY** 9 **PROLONGED UNDER THE FIFTH AMENDMENT**

10 Civil immigration detention is constitutionally permissible only so long as it
11 bears a reasonable relation to its purposes. *Zadvydas*, 533 U.S. at 690. When
12 detention becomes prolonged, due process requires heightened procedural
13 protections. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022).
14 Courts in this District consistently find detention presumptively prolonged once it
15 exceeds six months without a meaningful custody review. *Banda*, 385 F. Supp. 3d
16 at 1106. Judge Bermudez Montenegro has applied a fact-specific balancing inquiry
17 focusing on the length of detention, the reasons for delay, the likelihood of removal,
18 and the conditions of confinement. See *Ortega v. Bonnar*, No.
19 20-cv-1760-GPC-BGS, 2021 WL 495190, at *6–7 (S.D. Cal. Feb. 10, 2021). Here,
20 Respondents’ own exhibits confirm that Petitioner has been detained far beyond
21 the six-month benchmark and that much of the delay is attributable to normal
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1 adjudicatory processes rather than bad-faith litigation tactics by Petitioner. Under
2 binding Ninth Circuit law, such delay cannot justify indefinite civil incarceration.
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4 *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). This conclusion is reinforced
5 by the balancing framework set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).
6 Under *Mathews*, the Court weighs (1) the private interest affected, (2) the risk of
7 erroneous deprivation under the procedures used and the value of additional
8 safeguards, and (3) the Government's interests. Here, Petitioner's private interest
9 is substantial: he is a long-term resident with decades of presence and community
10 ties who is subject to physical restraint. Prolonged detention has also imposed a
11 significant financial burden on Petitioner's family, exacerbating the deprivation
12 caused by continued custody. That weighty liberty interest magnifies the
13 constitutional harm caused when custody-review mechanisms are delayed,
14 jurisdictionally foreclosed, or rendered ineffective by administrative paralysis. In
15 such circumstances, prolonged detention without meaningful, timely review
16 presents an unacceptably high risk of erroneous deprivation of liberty, even where
17 detention was initially authorized.

23 Moreover, Petitioner's removal proceedings remain ongoing, with an
24 individual (merits) hearing currently set for May 8, 2026. That future merits date
25 confirms removal is not imminent; instead, absent meaningful and timely custody
26 review, continued detention is the predictable and effectively inevitable result of
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1 the ordinary adjudicatory timeline.

2 **III. RESPONDENTS' STATUTORY ARGUMENTS DO NOT EXCUSE**
3 **DUE PROCESS VIOLATIONS**

4 Respondents contend that detention under the relevant statute authorizes
5 continued custody without constitutional limitation. That argument misreads
6 *Jennings*, which expressly left open as-applied constitutional challenges. 583 U.S.
7 at 306. Following *Jennings*, courts across the Ninth Circuit including within this
8 District, have granted habeas relief where detention becomes constitutionally
9 excessive. *Alecsa*, 27 F.4th at 1000. Judge Bermudez Montenegro has repeatedly
10 emphasized that statutory silence cannot override the Fifth Amendment. See
11 *Quezada-Bucio v. Garland*, No. 21-cv-932-GPC-BGS, 2021 WL 5906044, at *5
12 (S.D. Cal. Dec. 14, 2021) (“The absence of an express bond provision does not
13 eliminate the Court’s obligation to remedy unconstitutional detention.”).

14 **IV. APPLICABLE DUE PROCESS PRINCIPLES (LEGAL**
15 **BACKGROUND)**

16 This section sets forth the procedural principles guiding the Court’s
17 remedial discretion in prolonged-detention habeas cases. Nothing here should be
18 construed as requesting a routine or impermissible “second bond hearing” simply
19 to re-litigate Petitioner’s prior immigration judge custody determination. Rather,
20 Petitioner seeks relief only to the extent that existing custody-review mechanisms
21 are unavailable, jurisdictionally foreclosed, or incapable of meaningful
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1 adjudication in the present procedural posture. At minimum, any custody-review
2 process ordered by the Court must be timely, individualized, and meaningful—
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4 conducted by a neutral adjudicator; allowing Petitioner a fair opportunity to present
5 evidence and argument; requiring the Government to articulate a reasoned basis
6 for continued detention grounded in danger or flight risk; and resulting in a
7 reasoned decision sufficient for review.
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9 **V. RELIEF REQUESTED**

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11 For the foregoing reasons, and to remedy the ongoing deprivation of liberty
12 in a manner consistent with governing Ninth Circuit precedent, Petitioner
13 respectfully requests that the Court:
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15 1. Declare that Petitioner's continued detention under 8 U.S.C. § 1226(a), as
16 applied in the present procedural posture, raises serious due process
17 concerns given the length of detention and the unavailability or ineffective
18 operation of meaningful custody-review mechanisms;
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20 2. Order Respondents to ensure a prompt, individualized custody
21 determination that is actually available and capable of meaningful
22 adjudication under current agency practice and intervening authority,
23 consistent with constitutional requirements;
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25 3. Retain jurisdiction to ensure that such custody review is timely provided
26 and constitutionally adequate; and
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1 4. Grant such further relief as the Court deems just and proper under the
2 circumstances. This request is not intended to seek a routine or
3 impermissible “second bond hearing” following an initial immigration judge
4 bond determination, but rather to ensure that Petitioner is not subjected to
5 prolonged civil detention without access to a meaningful, timely
6 custody-review process as required by due process.
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9 Respectfully submitted,
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11 May 4, 2026.

12 /s/ Marcelo Gondim

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