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8 Pro Bono Attorney for Petitioner

9
10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 Aiur Tudinov,

13
14 Petitioner,

15 v.

16 Jeremy CASEY, Warden, Imperial Regional
17 Detention Facility;

18 Daniel A. BRIGHTMAN, Field Office
19 Director, San Diego Field Office, United
20 States Immigration and Customs
Enforcement;

21 Todd M. LYONS, Acting Director, United
22 States Immigration and Customs
Enforcement;

23 Markwayne MULLINS, Secretary of
24 Homeland Security;

25 Todd BLANCHE, Acting Attorney General,
in their official capacities,

26 Respondents.

Case No.: '26CV2634 LEK SBC

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW CAUSE
WITHIN THREE DAYS AND COMPLAINT
FOR INJUNCTIVE AND DECLARATORY
RELIEF**

Petitioner Aiur Tudinov petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

INTRODUCTION

1. Petitioner Aiur Tudinov is a noncitizen who seeks immediate release from custody because Respondents have held him at the Imperial Regional Detention Facility since November 29, 2024—a prolonged and constitutionally unreasonable period—without any individualized custody hearing.

2. Petitioner challenges only his present physical confinement and seeks the traditional habeas remedy of release (or, at a minimum, a prompt individualized bond hearing). Petitioner seeks that relief under the federal habeas statute, 28 U.S.C. § 2241, which is the proper vehicle for challenging civil immigration detention. *See Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024) (noting that a noncitizen's challenge to his present confinement falls within the "core of habeas").

3. His continued detention without a hearing as to flight risk and danger to the community violates the Due Process Clause of the Fifth Amendment. *See Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886) (Fifth and Fourteenth Amendments protect "all persons"); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (due process applies even to those whose presence is "unlawful, involuntary, or transitory").

4. Petitioner respectfully requests that this Court issue the Writ of Habeas Corpus commanding Respondents to release him from custody and enjoin Respondents from re-detaining him without notice to his counsel and a pre-deprivation hearing before a neutral decision-maker at which Respondents must prove material changes in circumstances justify re-detention.

CUSTODY

5. Petitioner Aiur Tudinov is currently in Respondents' legal and physical custody. 28 U.S.C. § 2241(c)(3).

6. They are detaining him at the Imperial Regional Detention Facility in Calexico, CA. He is under Respondents' and their agents' direct control.

JURISDICTION

7. This Court has jurisdiction to consider this habeas petition complaint under 28 U.S.C. § 1331; 28 U.S.C. § 2241; the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I, 2. Jurisdiction is not limited by a petitioner's nationality, immigration status, or any other classification. See *Boumediene v. Bush*, 553 U.S. 723, 747 (2008).

8. The historical "core" of habeas includes review of the legality of executive detention and, when appropriate, ordering release. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (at habeas's "historical core," the writ served to review the legality of "executive detention"); see also *Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211-12 (9th Cir. 2011)).

9. Petitioner's claim is a prototypical confinement challenge: he challenges only present detention and seeks release, which lies within the "core of habeas." *Doe*, 109 F.4th at 1194.

10. And federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the legality of Petitioner's detention.

11. Section 1252(b)(9) is not a jurisdictional bar here because Petitioner does not seek review of removability, admission, or any order of removal; he challenges only prolonged physical detention and seeks release (or, alternatively, a bond hearing). See *Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018) (plurality opinion) (holding that, "[u]nder these circumstances, § 1252(b)(9) does not present a jurisdictional bar" to a prolonged-detention/bond-hearing challenge).

12. The Third Circuit recently applied *Jennings* and explained that § 1252(b)(9) channels into the petition-for-review process only those claims whose questions of law or fact are closely tied to removal—i.e., "inextricably linked" to the government's authority or basis to remove—while distinguishing "length- and conditions-of-confinement claims" as detention claims that are not channeled in the same way. *Khalil*

1 *v. President of the United States*, Nos. 25-2162 & 25-2357, slip op. at 28-29 (3d Cir. Jan.
2 15, 2026).

3 13. Petitioner's claims fall squarely on the detention-specific side of that line:
4 Petitioner does not contest removability or ask this Court to halt removal proceedings;
5 he seeks only release (or a prompt bond hearing) because detention has become
6 unreasonably prolonged without constitutionally adequate process. *See Jennings*, 583
7 U.S. at 294-95 (plurality opinion).

8 14. Moreover, courts have recognized that channeling detention claims away from
9 district court would risk allowing the government to evade meaningful judicial review
10 simply by delaying the entry of a final order for an extended period; *E.O.H.C.* recognized
11 jurisdiction over a prolonged-detention claim in district court notwithstanding §
12 1252(b)(9). *See E.O.H.C. v. Sec'y U.S. Dep't of Homeland Sec.*, 950 F.3d 177, 185-86 (3d
13 Cir. 2020) (interpreting *Jennings*, 583 U.S. at 293 (plurality opinion)).

14 VENUE

15 15. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C. § 2242
16 because at least one Respondent is in this District, Petitioner is detained in this District,
17 Petitioner's immediate physical custodian is located in this District, and a substantial
18 part of the events giving rise to the claims in this action have taken place in this District.

19 PARTIES

20 16. Petitioner Aiur Tudinov is currently detained by the Respondents at the Imperial
21 Regional Detention Facility, an immigration detention facility in Calexico, CA. He has
22 been in ICE custody since November 29, 2024. His asylum case is pending appeal at the
23 Board of Immigration Appeals ("BIA").

24 17. Respondent Jeremy Casey is the Senior Warden at the Imperial Regional
25 Detention Facility, where Petitioner is being held. Respondent Casey is Petitioner's
26 immediate custodian. Petitioner sues him in his official capacity.

27 18. On information and belief, Respondent Daniel A. Brightman is the current Field
28 Office Director responsible for the San Diego Field Office of ICE with administrative

1 jurisdiction over Petitioner's immigration case. He is Petitioner's legal custodian.
2 Petitioner sues him in his official capacity.

3 19. Respondent Todd M. Lyons is the Acting Director of ICE. ICE is a component of the
4 U.S. Department of Homeland Security ("DHS"), 6 U.S.C. § 271, and an "agency" within
5 the meaning of the Administrative Procedure Act, 5 U.S.C. § 701(b)(1). It is the agency
6 responsible for enforcing immigration laws, and it is detaining Petitioner. Respondent
7 Lyons has custodial authority over Petitioner, who names Respondent Lyons in his
8 official capacity.

9 20. Respondent Markwayne Mullins is the Secretary of the DHS. DHS is the federal
10 agency responsible for enforcing immigration laws and granting immigration benefits.
11 See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent Mullins has ultimate custodial
12 authority over Petitioner, who names Respondent Mullins in his official capacity.

13 21. Respondent Todd Blanche is the Acting Attorney General of the United States. He
14 is responsible for the Immigration and Nationality Act's implementation and
15 enforcement (see 8 U.S.C. §§ 1103(a)(1), (g)) and oversees the Executive Office for
16 Immigration Review. Petitioner names him in his official capacity.

17 **STATEMENT OF FACTS**

18 22. Petitioner is a twenty-five-year-old national and citizen of Russia. He was born in
19 Buryatia, Russia in  2000.

20 23. Petitioner entered the United States on November 29, 2024, at Calexico, CA.
21 Petitioner came to the United States because he was persecuted by the Russian
22 government and military due to his race, religion, and political opinions.

23 24. Petitioner had his asylum merits hearing on October 28, 2025. The merits hearing
24 was almost 11 months from the date when the Notice to Appear was served on
25 Petitioner due to numerous immigration court docket changes. The Immigration Judge
26 ("IJ") entered a removal order on November 25, 2025. Petitioner timely appealed to the
27 BIA on December 17, 2025.

1 25. The BIA has an “expedited” detained-appeal briefing regime: in detained cases,
2 the noncitizen and DHS receive concurrent initial briefing deadlines of 21 days. BIA
3 Practice Manual (“BIA PM”) ch. 4.7(a)(2) (Briefing Deadlines) (citing 8 C.F.R. §
4 1003.3(c)(1)).

5 26. Petitioner has not applied for discretionary parole because it is futile to apply.

6 27. Petitioner has not moved for custody redetermination because he was designated
7 as an arriving alien and IJs have consistently ruled that they do not have jurisdiction to
8 redetermine custody of arriving aliens.

9 28. Petitioner does not have a criminal record in this or any other country.

10 29. Petitioner is confined in jail-like conditions. His physical and mental health is
11 exacerbated by detention.

12 30. Petitioner’s continued detention without a tenable justification and
13 demonstration that removal is significantly likely in the reasonably foreseeable future
14 violations his due process rights under the U.S. Constitution. *Zadvydas*, 533 U.S. at 718;
15 *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 770 (S.D. Cal. 2020).

16 EXHAUSTION OF REMEDIES

17 31. Exhaustion in habeas is prudential, not jurisdictional. *See Hernandez v. Sessions*,
18 872 F.3d 976, 988 (9th Cir. 2017).

19 32. A court may waive the prudential exhaustion requirement if “administrative
20 remedies are inadequate or not efficacious, pursuit of administrative remedies would be
21 a futile gesture, irreparable injury will result, or the administrative proceedings would
22 be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 993, 1000 (9th Cir. 2004) (citation and
23 quotation marks omitted)).

24 33. Exhaustion should be waived because Respondents assert Petitioner is subject to
25 mandatory detention and IJs in this procedural posture typically conclude they lack
26 authority to hold a custody/bond hearing, rendering administrative efforts futile.

27 34. Moreover, every day that Petitioner remains detained causes him harm that
28 cannot be repaired. His continued detention puts his mental and physical health at

1 greater risk, further warranting a finding of irreparable harm and the waiver of the
2 prudential exhaustion requirement.

3 35. The Court must consider the effects of prolonged detention on Petitioner in its
4 irreparable harm analysis. *See De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 U.S.
5 Dist. LEXIS 9851, at *5, *10 (N.D. Cal. Jan. 21, 2020) (noting that the petitioner
6 “continues to suffer significant psychological effects from his detention, including
7 anxiety caused by the threats of other inmates and two suicide attempts,” in finding
8 that petitioner would suffer irreparable harm warranting waiver of exhaustion
9 requirement).

10 LEGAL FRAMEWORK

11 Statutory Detention Authority

12 36. Petitioner is detained pursuant to 8 U.S.C. § 1225(b), since Petitioner was charged
13 under INA § 212(a)(7)(A)(i)(I) as an applicant for admission without valid entry
14 documents. Petitioner continues to be detained pursuant to 8 U.S.C. § 1225(b) pending
15 BIA appeal.

16 Due Process Constraints on Immigration Detention

17 37. The Due Process Clause applies to noncitizens, and the Supreme Court has “long
18 recognized that the Fifth and Fourteenth Amendments refer to all persons, not just
19 citizens.” *Yick Wo*, 118 U.S. at 369.

20 38. The Supreme Court has further held that “even one whose presence in this
21 country is unlawful, involuntary, or transitory is entitled to that constitutional protection
22 of the Due Process Clauses of the Fifth and Fourteenth Amendments.” *Mathews*, 426
23 U.S. at 77-78; *see also Plyler*, 457 U.S. at 210; *Wong Wing*, 163 U.S. 228, 238 (1896).

24 Entry Fiction is Narrow and Does not Extinguish Detention-Related Due Process Claims

25 39. Under the “entry fiction,” a noncitizen detained or paroled after presenting at a
26 port of entry has not “entered” the United States and therefore has “no procedural due
27 process rights in the admission process” beyond what Congress provides. *Kwai Fun*
28 *Wong v. United States*, 373 F.3d 952, 971 (9th Cir. 2004). But the Ninth Circuit has

1 emphasized that the entry fiction concerns only “the narrow question of the scope of
2 procedural rights available in the admission process” and “is not necessarily applicable
3 with regard to other constitutional rights.” *Id.* at 972.

4 40. The entry fiction must be defined narrowly to avoid “any number of abuses”
5 being deemed constitutionally permissible by labeling certain persons as “non-persons.”
6 *Id.* at 973.

7 41. Petitioner does not ask this Court to decide the merits of admissibility or asylum
8 eligibility; he seeks release from prolonged civil detention without an individualized
9 custody hearing, a claim collateral to the admission process and therefore not barred by
10 the entry fiction. *See id.* at 971-73.

11 42. In the post-removal-order detention context, the Ninth Circuit has rejected
12 categorical reliance on the old excludable/deportable dichotomy when applying
13 prolonged-detention limits. *See Xi v. INS*, 298 F.3d 832, 837 (9th Cir. 2002) (rejecting the
14 government’s attempt to avoid *Zadvydas* limits based on inadmissibility and applying
15 *Zadvydas* framework).

16 43. And while the Supreme Court in *Department of Homeland Security v.*
17 *Thuraissigiam*, 591 U.S. 103, 107 (2020), rejected a habeas petitioner’s argument that
18 the Due Process Clause conferred additional rights to challenge expedited removal
19 beyond those Congress provided, and stated that “an alien at the threshold of initial
20 entry cannot claim any greater rights under the Due Process Clause,” *Thuraissigiam*
21 does not foreclose a constitutional challenge to prolonged physical detention without
22 an individualized bond hearing.

23 44. In *Thuraissigiam*, the Court reasoned that the political branches have plenary
24 authority over admission and exclusion and that “an alien in respondent’s position has
25 only those rights regarding admission that Congress has provided by statute,” (*id.* at
26 140), but courts have distinguished admission-related due process limitations from
27 detention-related due process protections.
28

45. Consistent with that distinction, courts have recognized that “the Due Process Clause stands as a significant constraint on the manner in which the political branches may exercise their plenary authority—through detention or otherwise,” and have concluded that “the holding in *Thuraissigiam* does not foreclose” due process claims seeking a bond hearing with procedural protections. *Hernandez v. Wofford*, No. 25-cv-986-KES-CDB HC, 2025 WL 2420390, at *6 (E.D. Cal. Aug. 21, 2025) (citations omitted); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1171-72 (W.D. Wash. 2023).

46. And as courts have explained, “[n]owhere in [*Thuraissigiam*] did the Supreme Court suggest that arriving aliens being held under § 1225(b) may be held indefinitely and unreasonably with no due process implications, nor that such aliens have no due process rights whatsoever.” *A.L. v. Oddo*, 761 F. Supp. 3d 822, 825 (W.D. Pa. 2025).

Prolonged Detention Standard

47. Courts evaluating whether § 1225(b) detention has become unreasonably prolonged apply a fact-intensive balancing framework, including the six factors articulated in *Banda v. McAleenan*. See *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019) (citing *Jamal A. v. Whitaker*, 358 F. Supp. 3d 853, 858-59 (D. Minn. 2019)) (accord *Kydyrali*, 499 F. Supp. 3d at 773-74).

48. Under that six-factor framework, courts consider: “(1) the total length of detention to date (2) the likely duration of future detention (3) conditions of detention (4) delays in the removal proceedings caused by the detainee (5) delays in the removal proceedings caused by the government and (6) the likelihood that the removal proceedings will result in a final order of removal.” See *Banda*, 385 F. Supp. at 1106 (internal citations omitted).

49. Courts in this District have similarly recognized that, at some point, prolonged mandatory detention under § 1225(b) without an individualized bond hearing violates due process. See *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772-74 (S.D. Cal. 2020); *Rash v. LaRose*, No. 26v0008-LL-DEB, 2026 U.S. Dist. LEXIS 19033 at *13 (S.D. Cal. Jan. 30, 2026) (“Considering all the factors, the Court finds Petitioner’s mandatory detention under §

1 1225(b) has become unreasonable and that due process requires that he be provided
2 with a bond hearing. *See Rodriguez v. Robbins*, 715 F.3d 1127, 1144 (9th Cir.
3 2013) ("[W]e note that the discretionary parole system available to § 1225(b) detainees
4 is not sufficient to overcome the constitutional concerns raised by prolonged mandatory
5 detention.")); *Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 U.S. Dist. LEXIS 222822
6 at *11-*12 (S.D. Cal. Nov. 12, 2025); *Maksin v. Warden, Golden State Annex*, No. 1:25-
7 cv-00955-SKO (HC), 2025 U.S. Dist. LEXIS 200588 at *8 (E.D. Cal. Oct. 9, 2025) ("Several
8 courts including the Third, Sixth, and Ninth Circuit, as well as numerous district courts,
9 have found that unreasonably long detention periods may violate the due process
10 clause." (collecting cases)); *Abdul-Samed v. Warden of Golden State Annex Det. Facility*,
11 No. 1:25-CV-00098-SAB-HC, 2025 U.S. Dist. LEXIS 142973 at *16 (E.D. Cal. July 24, 2025)
12 ("[E]ssentially all district courts that have considered the issue agree that prolonged
13 mandatory detention pending removal proceedings, without a bond hearing, 'will—at
14 some point—violate the right to due process.'" (quoting, *Martinez v. Clark*, No. C18-
15 1669-RAJ-MAT, 2019 WL 5968089, at *6 (W.D. Wash. May 23, 2019), *report and*
16 *recommendation adopted*, No. 18-CV-01669-RAJ, 2019 WL 5962685 (W.D. Wash. Nov.
17 13, 2019))).

18 **Bond Hearing Requirements**

19 50. Where mandatory detention has become unreasonably prolonged, due process
20 requires that Petitioner receive "a prompt and individualized bond hearing." *See Banda*,
21 385 F. Supp. 3d at 1106.

22 51. At such a hearing, the Government must justify continued detention "by a
23 showing of clear and convincing evidence that Petitioner would likely flee or pose a
24 danger to the community if released." *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir.
25 2011), abrogated on other grounds by *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *see*
26 *also Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024).

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Fifth Amendment Due Process Violation - Prolonged Mandatory Detention Without Bond Hearing

52. Petitioner re-alleges and incorporates by reference paragraphs 1-51 above as if fully set forth herein.

53. Petitioner is detained pursuant to 8 U.S.C. § 1225(b) as an arriving alien without valid entry documents. Petitioner continues to be detained pursuant to 8 U.S.C. § 1225(b) pending BIA appeal. Petitioner has remained continuously detained since November 29, 2024—now exceeding 16 months—without any individualized custody or bond hearing.

54. The Due Process Clause applies to noncitizens. *Yick Wo*, 118 U.S. at 369; *Mathews*, 426 U.S. at 77-78; *Plyler*, 457 U.S. at 210; *Wong Wing*, 163 U.S. at 238.

55. The Ninth Circuit holds that “entry fiction” limits only “procedural due process rights in the admission process,” and is “not necessarily applicable with regard to other constitutional rights.” *Kwai Fun Wong*, 373 F.3d at 971-72.

56. The entry fiction must be construed narrowly to prevent constitutional “abuses” that would follow from labeling persons as “non-persons.” *Id.* at 973.

57. Petitioner does not seek adjudication of admissibility or asylum eligibility; he seeks release (or, at minimum, a bond hearing) from prolonged civil detention—relief collateral to the admission process and therefore not barred by the entry fiction. *See id.* at 971-73.

58. Nor does *Thuraissigiam* foreclose this detention-based due process claim, because *Thuraissigiam* addressed admission-related limits on review of expedited removal screening rather than whether a person may be held for an unreasonably prolonged period without an individualized custody hearing. *See Padilla*, 704 F. Supp. 3d at 1171-72 (*Thuraissigiam* does not foreclose bond-hearing due process claims);

1 *Hernandez v. Wofford*, No. 25-cv-986-KES-CDB HC, 2025 WL 2420390, at *3 (E.D. Cal.
2 Aug. 21, 2025) (same).

3 59. Courts have likewise emphasized that *Thuraissigiam* does not suggest § 1225(b)
4 detainees may be held “indefinitely and unreasonably with no due process
5 implications.” *A.L. v. Oddo*, 761 F. Supp. 3d at 825.

6 60. Whether § 1225(b) detention has become unreasonably prolonged is assessed
7 under a fact-intensive balancing test considering (1) length of detention; (2) likely future
8 duration; (3) conditions; (4) detainee-caused delay; (5) government-caused delay; and
9 (6) likelihood of a final removal order. *Banda*, 385 F. Supp. 3d at 1106.

10 61. Applying these factors, Petitioner’s detention has become unreasonably
11 prolonged and arbitrary: Petitioner has already been detained for approximately 16
12 months in jail-like conditions; he has caused no material delay; government-caused
13 delays (including numerous counts of immigration court rescheduling to change hearing
14 dates, reassign to different IJs, and/or make up for IJ cancellations; reset from merits
15 hearing to master calendar hearing) have extended proceedings; and he faces additional
16 months of detention while his appeals proceed. *Id.*

17 62. Courts have found detentions of similar and shorter duration without a bond
18 hearing weigh toward a finding that they are unreasonable. *See, e.g., Gao v. LaRose*, No.
19 25-CV-2084-RSH-SBC, 2025 U.S. Dist. LEXIS 190572, at *10 (S.D. Cal. Sept. 26,
20 2025) (over ten months); *Masood v. Barr*, No. 19-CV-07623-JD, 2020 U.S. Dist. LEXIS
21 4809, at *9 (N.D. Cal. Jan. 8, 2020) (nearly nine months); *Cabral v. Decker*, 331 F. Supp.
22 3d 255, 261 (S.D.N.Y. 2018) (over seven months); *Brissett v. Decker*, 324 F. Supp. 3d 444,
23 452 (S.D.N.Y. 2018) (over nine months).

24 63. Because detained BIA appeals are intended to proceed on expedited, concurrent
25 briefing schedules, BIA PM ch. 4.7(a)(2), prolonged waits for briefing schedules or other
26 administrative steps materially extend detention and make future custody duration
27 unpredictable.
28

64. Due process therefore requires a prompt individualized bond hearing. *See Banda*, 385 F. Supp. 3d at 1106.

65. At that hearing, the Government must justify continued detention by clear and convincing evidence that Petitioner is a flight risk or danger. *Singh*, 638 F.3d at 1203.

66. By continuing to detain Petitioner without providing that prompt individualized bond hearing with the Government bearing the clear-and-convincing burden, Respondents are violating Petitioner's rights under the Fifth Amendment's Due Process Clause. *Banda*, 385 F. Supp. 3d at 1106; *Singh*, 638 F.3d at 1203.

SECOND CAUSE OF ACTION

Fifth Amendment Due Process Violation - Arbitrary and Unreasonable Government-Caused Delay

67. Petitioner re-alleges and incorporates by reference paragraphs 1-66 above as if fully set forth herein.

68. Petitioner has been detained under 8 U.S.C. § 1225(b) since November 29, 2024 and remains confined at the Imperial Regional Detention Facility while his BIA appeal is pending.

69. Separate and apart from Petitioner's claim that prolonged mandatory detention without a bond hearing violates due process, Petitioner alleges here that Respondents and other government actors have affirmatively prolonged his detention through avoidable administrative delay, rendering continued confinement arbitrary and constitutionally unreasonable.

70. Government-caused delays are a central consideration in determining whether continued detention has become constitutionally unreasonable. *See Banda*, 385 F. Supp. 3d at 1106 (including "delays . . . caused by the government" as a factor in assessing whether detention has become unreasonably prolonged).

71. Here, material delays are attributable to the government, including: (a) numerous counts of immigration court rescheduling to change hearing dates, reassign to different IJs, and/or make up for IJ cancellations, including one time in May 2025, one time in

1 June 2025, one time in July 2025, two times in August 2025, three times in September
2 2025, and one time in October 2025; (b) reset from merits hearing to master calendar
3 hearing in September 2025; and (c) delays in the BIA appeal process that have extended
4 detention while Petitioner remains in custody through no fault of his own.

5 72. The BIA's own rules reflect that detained appeals are intended to move on an
6 expedited basis: when an appeal is filed by a detained noncitizen, the noncitizen and
7 DHS receive concurrent initial briefing deadlines of 21 calendar days. *See* BIA Practice
8 Manual ch. 4.7(a)(2); 8 C.F.R. § 1003.3(c)(1).

9 73. Despite these expedited rules, there has been a significant delay in Petitioner's
10 BIA appeal. Petitioner appealed on December 17, 2025, but there has been no update
11 on the appeal.

12 74. These government-driven delays have directly extended Petitioner's civil
13 confinement under § 1225(b) while he has diligently pursued his claims and complied
14 with all obligations, transforming continued detention into an arbitrary restraint on
15 liberty in violation of the Fifth Amendment.

16 75. Because Petitioner's continued detention has been materially prolonged by
17 government-caused delays—contrary to the BIA's expedited detained-appeal
18 framework and without any individualized justification tied to danger or flight risk—
19 Respondents are violating Petitioner's Fifth Amendment due process rights, and habeas
20 relief is warranted. *See Banda*, 385 F. Supp. 3d at 1106.

21 PRAYER FOR RELIEF

22 Petitioner asks this Court to grant the following relief:

- 23 1. Assume jurisdiction over this matter;
- 24 2. Order Respondents to show cause why the writ should not be granted as to
25 Petitioner within three days, and set a hearing on this Petition within five
26 days of the return, as required by 28 U.S.C. 2243;
- 27 3. Enjoin Respondents from transferring Petitioner out of the jurisdiction
28 during the pendency of the habeas petition;

4. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner from immigration custody;
5. Alternatively, order Respondents to provide a prompt individualized bond hearing before a neutral adjudicator at which the Government bears the burden by clear and convincing evidence. *See Singh*, 638 F.3d at 1203; order that the IJ for the bond hearing be different than the IJ for the merits hearing; order that the IJ for the bond hearing be required to issue a written order explaining their decision; and order that the Court retain jurisdiction over Petitioner's habeas petition until the parties submit a status report to update the Court on the outcome of the bond hearing;
6. Order Respondents to return all of Petitioner's belongings, including his identification documents;
7. Enjoin Respondents from further detaining him without providing notice to the Court and Petitioner's counsel, and a hearing at which Respondents prove changed circumstances regarding his dangerousness or risk of flight warrant his detention;
8. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment. *See Kydyrali*, 499 F. Supp. 3d at 772-74; and
9. Grant such further relief as this Court deems just and proper.

Dated: April 24, 2026

Respectfully submitted,

By: /s/ Runkun (Justin) Jiang
Runkun (Justin) Jiang

Pro Bono Attorney for Petitioner

TABLE OF EXHIBITS

Exhibit 1: Notice to Appear

Exhibit 2: Photocopy of Petitioner's Passport

Exhibit 3: IJ Decision on Asylum Application

Exhibit 4: BIA Appeal Receipt Notice

Exhibit 5: Petitioner's Declaration