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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
21 Enforcement;

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

25 Markwayne MULLINS, Secretary of
26 Homeland Security;

27 Todd BLANCHE, Acting Attorney General,
28 in their official capacities,

Respondents.

Case No.: 3:26-cv-02634-LEK-SBC

**PETITIONER'S TRAVERSE SUPPORTING
PETITION FOR WRIT OF HABEAS
CORPUS**

Petitioner, Aiur Tudinov, through counsel, traverses Respondents' Response to
Petition.

1 **A. INTRODUCTION**

2 Respondents concede that Petitioner should receive a bond hearing, where the
3 government would bear the burden of proof establishing, by clear and convincing
4 evidence, that Petitioner poses a danger to the community or risk of flight risk. (ECF 4 at
5 1-2.) However, as argued in the petition, in practice, a bond hearing is not an adequate
6 remedy in this case.

7 **B. DUE PROCESS REQUIRES THAT AN IMPARTIAL ADJUDICATOR DECIDE IF**
8 **PETITIONER’S CONTINUED DETENTION BEARS A REASONABLE RELATION TO FLIGHT**
9 **RISK AND DANGER TO THE COMMUNITY.**

10 “A neutral judge is one of the most basic due process protections.” *Castro-Cortez*
11 *v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-*
12 *Vargas v. Gonzales*, 548 U.S. 30 (2006). *See also Diouf v. Napolitano* (“Diouf II”), 634
13 F.3d 1081, 1091-92 (9th Cir. 2011) (neutral adjudication decreases the risk of erroneous
14 deprivation). Due process requires that immigration detention, “bear [] a reasonable
15 relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538
16 U.S. 510, 527 (2003) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)). Specifically,
17 immigration detention must be reasonably related to the government’s goals of
18 preventing flight and protecting the community from harm and be accompanied by
19 adequate procedural protections to ensure that those goals are being served. *See*
20 *Zadvydas*, 533 U.S. at 690-91. Chief among these procedural protections is “the
21 guarantee of an impartial and disinterested tribunal,” which the Due Process Clause
22 requires “in both civil and criminal cases.” *Marshall v. Jerrica, Inc.*, 446 U.S. 238, 242
23 (1980).

24 The systematic transformation of EOIR (the sub-agency within the DOJ that
25 houses the Immigration Courts and BIA) into an instrument of the current
26 administration’s enforcement agenda has made it structurally incapable of providing
27 Petitioners with the impartial tribunal and individualized assessment that due process
28 requires. *See Perez Velasquez v. Bondi*, No. 26-cv-01759-GPC-DDL (S.D. Cal. April 16,

2026) (ordering immediate release after finding Petitioner’s post-habeas bond hearing legally and constitutionally deficient.)

The ongoing mass-scale purge of immigration and BIA judges, the installation of explicitly enforcement-aligned “deportation judges,” EOIR policy directives establishing that adjudications favor the government over noncitizens, and explicit instructions to defy district court rulings, demonstrate that the immigration system is not an independent adjudicative body.¹ Since the administration change, DHS has filed 309% more appeals. The increase in DHS bond appeals saw the most dramatic increase. The BIA sustained DHS appeals at a markedly higher rate.² This increase in both DHS bond appeal, and BIA grants of these appeals demonstrate an institution change seeking to keep noncitizens unlawfully detained. Petitioner has been detained for over 17 months. Based on recent case law and statistics, a bond hearing is not an adequate remedy in this case.

Because a bonding hearing in this context is likely to be biased, perfunctory, and outcome-determinative in favor of detention, it would not cure the constitutional injury Petitioner presently suffers from more than seventeen months of confinement without a neutral, effective review. The traditional habeas remedy of release – squarely within the historical core of habeas jurisdiction – therefore provides the only meaningful relief capable of stopping the ongoing due-process violation.

Dated: May 6, 2026

Respectfully submitted,

By: /s/ Runkun (Justin) Jiang

Runkun (Justin) Jiang
Pro Bono Attorney for Petitioner

¹ See Ex. 1, NEW YORK TIMES, *How Trump Purged Immigration Judges to Speed Up Deportations* April 9, 2026

² See Ex. 2 Jayashri Srikantiah and Rajan Lukose, *The Board of Immigration Appeals Under the Second Trump Administration, An Empirical Analysis of Grant Rates and DHS Appellant Behavior* March 3, 2026

TABLE OF EXHIBITS

Exhibit 1: NEW YORK TIMES, *How Trump Purged Immigration Judges to Speed Up Deportations* April 9, 2026

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