

Makhare Jangavadze

NAME



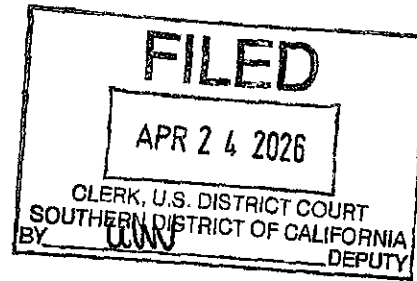
PRISON NUMBER

Imperial Regional Detention Facility

PLACE OF CONFINEMENT

1572 Gateway Road, CALEXICO, CA 92231

ADDRESS



United States District Court
Southern District Of California

Makhare Jangavadze

(FULL NAME OF PETITIONER)

Petitioner

v.

WARDEN JEREMY CASEY

(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER, E.G. PAROLE OFFICER)

Respondent

and

The Attorney General of the State of California, Additional Respondent.

Civil No. '26CV2619 JLS GC

(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

1. Are you currently:

A pretrial detainee (waiting for trial on criminal charges)

Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

(a) Name and location of court that sentenced you: _____

(b) Docket or case number (if you know): _____

(c) Date of sentencing: _____

Being held on immigration charge

Other (explain): _____

2. Are you currently being held on orders by:

Federal authorities State authorities Other - explain:

U.S. Department of Homeland Security (DHS)

3. What are you challenging in this petition:

How your sentence is being carried out, calculated, or credited by prison or parole authorities

Pretrial detention

Immigration detention

Detainer

The validity of your conviction or sentence as imposed

Disciplinary proceedings

Other (specify):

4. Provide more information about the decision or action you are challenging:

(a) Name and location of the court or agency:

U.S. Immigration and Customs Enforcement DHS.

(b) Case number, docket number or opinion number (if you know):

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

(d) Date of the decision or action:

5. Did you appeal the decision, file a grievance or seek an administrative remedy?

Yes No

(a) If your answer to 5 was "Yes," give the following information:

(1) Name of court, agency or authority:

(2) Date of filing:

(3) Case number, docket number or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If your answer to 5 was "No," explain why you did not appeal: _____
No appeal available

6. After the first appeal, did you file a **second appeal** to a higher authority, court or agency?

Yes No

(a) If your answer to 6 was "Yes," give the following information:

- (1) Name of court, agency or authority: _____
- (2) Date of filing: _____
- (3) Case number, docket number or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If your answer to 6 was "No," explain why you did not appeal: _____
No appeal available

7. After the second appeal, did you file a **third appeal** to a higher authority, agency or court?

Yes No

(a) If your answer to 7 was "Yes," give the following information:

- (1) Name of court, agency or authority: _____
- (2) Date of filing: _____
- (3) Case number, docket number or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) If your answer to 7 was "No," explain why you did not appeal: _____
No appeal available

8. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available court remedies as to each ground on which you request action by the federal court. Moreover, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

You should *raise in this petition all available grounds* on which you base your allegations that you are being held in custody unlawfully.

GROUND ONE: I have been detained for over _____ months.

(a) **Supporting FACTS** (state *briefly* without citing cases or law)

I am cooperated fully with ICE's efforts to remove me by providing information about my country of birth and country of citizenship, signing transfer documents, providing fingerprints and identification documents. Entered by the district court in *Jennings* for detainees held in the Central District of California "remains in place in the Central District of California until it is vacated by some further action by [the district court] or the Ninth Circuit." See Joint Status Report, *Rodriguez v. Martin*, No. CV 07-3239, at *2 (C.D. Cal. Mar. 5, 2018) (ECF No. 478). All noncitizen within the Central District of California who: (1) Are or were detained for longer than six months pursuant to one of the general immigration detention statutes pending completion of removal proceedings, including judicial review; (2) Are not and have not been detained pursuant to a national security detention statute; and (3) Have not been afforded a hearing to determine whether their detention justified.

See Rodriguez v. Holder, No. CV 07-3239 WL 5229795, at *1 (C.D. Cal. Aug. 6, 2013) (order granting permanent injunction).

The district court also approved subclasses, which correspond to the four general immigration detention statutes under which the class members are detained: 8 U.S.C. §§ 1225(b), 1226(a), 1226(c), and 1231(a). *Id.* On appeal, the Ninth Circuit had reversed the injunction as to Section 1231(a) subclass after concluding that “the § 1231(a) subclass does not exist.” *See Rodrigues*, 804 F.3d at 1086. For this reason, Section 1231(a) detainees’ right to a prolonged detention hearing was not before the Court in *Jennings*. The district court clarified that the injunction requires hearings for all noncitizens detained more than six months with pending cases, including noncitizens with reinstated removal orders and those in withholding-only proceedings. *See Rodrigues*, 2013 WL 5229795, at *1. The permanent injunction requires an automatic bond hearing before the immigration judge at six months of detention, where the government bears the burden of justifying continued detention by clear and convincing evidence. *Id.* at *1-2. The court further required that the immigration judge consider releasing individuals on reasonable conditions of supervision in making its custody decision. *Id.* at *2.

In *Diouf v. Napolitano (Diouf II)*, 634 F.3d 1081 (9th Cir. 2011), the Ninth Circuit held that prolonged detention under 8 U.S.C. § 1231(a)(6) is prohibited without an individualized hearing to determine whether the person is a flight risk or a danger to the community. Because prolonged detention without a hearing presents serious due process concerns, and the statute did not plainly authorize such detention, the Court construed Section 1231(a)(6)

to require a custody hearing before an immigration judge where detention has lasted six months. *Diouf II*, 634 F.3d at 1086. *Diouf II* clarified that “[a]s a general matter, detention is prolonged when it has lasted six months and is expected to continue more than minimally beyond six months.” *Id.* at 1092 n.13. The court also made clear that the government should not presumptively detain individuals for six months without a hearing. Rather, the government “should be encouraged to afford an alien a hearing before an immigration judge before the 180-day threshold has been reached if it is practical to do so, and it has already become clear that the alien is facing prolonged detention.” *Id.* *Jennings* did not abrogate the Ninth Circuit’s ruling in *Diouf II*. See *Ramos*, 2018 WL 1317276, at *3 (“*Jennings* ... left untouched the Ninth Circuit’s requirement of such hearings for immigrants detained under section 1231(a)(6).”). The question of whether Section 1231(a)(6) can be construed to require a custody hearing over prolonged detention was not before the Court in *Jennings*. Moreover, citing its prior decision in *Zadvydus v. Davis*, 533 U.S. 678 (2001), the Court underlined that, in contrast to the order general immigration detention statutes, Section 1231(a)(6) may be construed to limit prolonged detention, as the Ninth Circuit did in *Diouf II*. As the Court explained, discussing its analysis of Section 1231(a)(6) in *Zadvydus*: “[T]he Court detected ambiguity in the statutory phrase “may be detained.” “[M]ay” the Court said, “suggests discretion” but not necessarily “unlimited discretion. In that respect the word ‘may’ is ambiguous.”

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: The conditions of confinement.

(a) Supporting FACTS (state *briefly* without citing cases or law):

Being held in custody like being in prison: (1) Constant threats from guards who have the power to send me to another facility with worse conditions. (2) Televisions and library time are limited, regardless of established rules. (3) Checking personal staff every week everyone is taken outside into little yard in unit. (4) Everyone is taken out into the exercise yard for two hours, forcibly, threatened with being sent to a punishment cell called "alfa" for disobedience, regardless of their wishes or health, where there are few places to hide from the scorching sun. (5) The security staff treats us like criminals who have committed particularly serious crimes (they yell, abuse their authority, and insults). (6) Some guards even ask why we come here if we don't speak English or Spanish? (7) I experience violations of laws and rights on a daily basis. the food they provide is of poor quality, the water is highly chlorates and poor quality.

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: My detention has become unconstitutionally prolonged and violates the Fifth Amendment to the United States Constitution.

(a) Supporting FACTS (state *briefly* without citing cases or law):

The Fifth Amendment to the United States Constitution provides that "No person shall be ... deprived of life, liberty, or property, without due process of law," U.S. Const. Amend. V. The Supreme Court has held that the Due Process Clause of the United States Constitution applies to all persons within the United States, including aliens, whether their

presence here is lawful, temporary or permanent. See *Zadvydas v. Davis*, 533 U.S. at 693. The Third Circuit has ruled that criminal aliens detained pending removal proceedings pursuant to 1226(c) of the INA have a due process right to a bond hearing once their detention becomes unreasonable. See *German Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203 (3rd Cir. 2020). In determining whether the detention of a person facing deportation is reasonable, the courts must consider four factors: (1) the duration of the detention; (2) whether the detention is likely to continue; (3) reasons for the delay; (4) whether the detainee's conditions of confinement are "meaningfully different from criminal punishment." *Id* at 210-211. The same inquiry applies whether the person is held pursuant to Section 1225(b) or 1226(c). See *German Santos v. Warden Pike County Correctional Facility*, 965 F.3d at 210.

If arriving asylum seekers have limited due process rights with respect to the procedures for *admission*, they still have a right to freedom from prolonged *detention* that is not needed to serve its purpose. Indeed, *Zadvydas* makes clear that the government's power to exclude and its power to detain are distinct for due process purposes. The detainees there had lost all legal right to reside in the United States, but the Supreme Court nonetheless recognized their interest in "[f]reedom from ... physical restraint," 533 U.S. at 690, which protects against arbitrary imprisonment. See also *Rosales-Garcia*, 322 F.3d at 412-13. Arriving asylum seekers have been determined to have a credible fear of persecution and been referred for full adjudication of that claim in removal proceedings. Congress has afforded them a right to be in the U. S. while their asylum claim is pending.

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

GROUND FOUR: There is not significant likelihood of my release from detention in the near future.

(a) **Supporting FACTS** (state *briefly* without citing cases or law):

Applying established Ninth Circuit precedent, the court held that due process requires the government to bear the burden of justifying continued detention by clear and convincing evidence. The court further required that the immigration judge consider releasing individuals on reasonable conditions of supervision and the length of the individual's detention in making the custody decision. The court ordered periodic bond hearings, every six months, for detainees who are not released after their first hearing. *See Rodriguez v. Robbins*, 804 F.3d 1087-89 (9th Cir. 2015).

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

9. If any of the grounds listed in 4A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not presented, and give your reasons for not presenting them:

10. Do you have any petition or appeal now pending in any court, either state or federal, as to the execution of sentence under attack?

Yes No

11. Give the name and address, if known, of each attorney who represented you in the following stages of the execution of sentence attacked herein:

(a) In any post-conviction proceeding

N/A

(b) On appeal from any adverse ruling in a post-conviction proceeding

N/A

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

4 22 2026

(DATE)



SIGNATURE OF PETITIONER