AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

Southern District of California

Luis Antonio Ramos Villanueva

Petitioner

v.

Christopher J. LaRose, Warden of Otay Mesa Detention Center; Todd Lyons, Director of ICE.

Respondent
(name of warden or authorized person having custody of petitioner)

Case No. '26CV2797 JO VET
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Luis Antonio Ramos Villanueva
   (b) Other names you have used:
2. Place of confinement:
   (a) Name of institution: Otay Mesa Detention Center
   (b) Address: 7488 Calzada de La Fuente, San Diego, CA, 92143
   (c) Your identification number: [redacted]
3. Are you currently being held on orders by:
   ☑ Federal authorities ☐ State authorities ☐ Other - explain:
4. 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 number of criminal case:
   (c) Date of sentencing:
   ☑ Being held on an immigration charge
   ☐ Other *(explain)*:

Decision or Action You Are Challenging

5. What are you challenging in this petition:
   ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention
☑ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other *(explain)*:

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

(a) Name and location of the agency or court: Immigration and Customs Enforcement (ICE) and Otay Mesa Detention Center.

(b) Docket number, case number, or opinion number: [redacted]

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
The violation of due process by the IJ during bond hearing.
Unreasonable detention for over almost 16 months.
Unconstitutional conditions of detention. The conditions are indistinguishable from penal confinement.

(d) Date of the decision or action: 08/01/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

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

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not appeal:

8. **Second appeal**

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

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

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

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☑ Yes ☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 01/09/2025

(b) Date of the removal or reinstatement order: 08/01/2025

(c) Did you file an appeal with the Board of Immigration Appeals?

☑ Yes ☐ No

If "Yes," provide:

(1) Date of filing: 02/24/2026

(2) Case number: [redacted]

(3) Result: In process

(4) Date of result:

(5) Issues raised: Denying of bond due a Immigration Judge failed to comport with due process requirements. She did not properly and completely consider all the evidence presented, and also allowed to the DHS to fail to meet its burden of proof, and the Immigration Judge's abuse of discretion.

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☑ No

If "Yes," provide:

(1) Name of court:

(2) Date of filing:

(3) Case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

(b) Name of the authority, agency, or court:

(c) Date of filing:

(d) Docket number, case number, or opinion number:

(e) Result:

(f) Date of result:

(g) Issues raised:

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Arbitrary detention. Lack of specific detention grounds in violation of the 5th Amendment When immigration authorities detain an individual and fail to justify the need for continued detention, it becomes arbitrary and violates the 5th amendment due process protections. Lack of correct individualized analysis of documentation by Immigration Judge, which constitutes Abuse of Discretion and violates the Constitution.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

The IJ failed to comply her duty to assure the DHS met its burden of prove that I am a flight risk, violating my due process right of the Fifth Amendment.

See attached document for further information and grounds.

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

☐ Yes ☐ No

GROUND TWO: Violation of due process clause (5th Amendment) Unreasonable length of detention: The Supreme Court has held that detention in immigration cases cannot be indefinite or prolonged without adequate justification. Due process extends to 'all persons' within the United States, including [non citizens], whether their presence here is lawful, unlawful, temporary, or permanent. Zadvydas v. Davis 533 U.S. 678, 693 (2001)

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

I have been detained for almost 16 months. Besides, my detention is highly probable to be even much longer and and unpredictable, due appeals process are still pending.

See attached document for further information and grounds.

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

☐ Yes ☐ No

GROUND THREE: Unconstitutional conditions of detention. Eight amendment violations.

Substandard Medical Care: Prolonged detention with inadequate medical care of failure to provide treatment for medical conditions form basis for habeas petition. Deprivation of constitutional rights unquestionably constitutes irreparable injury. See Palafox v. Semala, 2026 U.S. Dist. LEXIS 66819

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Inadequate medical treatment, inedible food, facility overcrowded causing exposing continuously to respiratory illnesses. I am in danger of having prostate cancer because I presented dangerous level in the laboratory exams and have not an adequate medical treatment.

Deprivation of Constitutional Rights is a huge irreparable harm and hardship for me and my family.

See attached document for further information and grounds.

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

☐ Yes ☐ No

GROUND FOUR: Detention of individuals who are not subject to mandatory detention.

Mandatory detention is for people convicted of crimes like: aggravated felonies, crimes involving moral turpitude, drugs offenses, 2 or more offenses for which an individual spent a total of 5 years in prison.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

None of the requirements for mandatory detention apply for me.

See attached document for further information and grounds.

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

☐ Yes ☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: The administrative remedy doesn't see the constitutionals grounds stated in this petition.

Request for Relief

15. State exactly what you want the court to do: 1. Issue a writ of Habeas Corpus; 2. Order my immediate release from immigration detention; 3. Order to provide an attorney for my representation; 4. In the alternative, conduct an immediate bond hearing before a different IJ where DHS meet its burden and the IJ comply his/her duty to ensure due process, and grant bond; 5. In the option, the IJ shall grant a bond for a reasonable amount, See Phong Doan v. INS, 311 F.3d 1160, 1162 (9th Cir. Cal. 2002); 6. Enjoin Respondents from transferring me outside the jurisdiction of Dist. Court of Southern C

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

4/28/26

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 04/27/2025

[redacted]

Signature of Petitioner

Signature of Attorney or other authorized person, if any

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Petitioner Luis Antonio Ramos Villanueva	)	
v.	)	Case: '26CV2797 JO VET
Respondents Christopher J. LaRose, Warden of Otay Mesa Detention Center, Todd Lyons, Director of ICE.	)	

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND EMERGENCY RELIEF

The undersigned, Luis Antonio Ramos Villanueva, hereinafter the Petitioner, respectfully present to Your Honor this petition for writ of habeas corpus pro se, requesting my immediate release because I consider that I have all the legal and factual arguments for it to be granted to me.

If Your Honor fins any error or omissions, please do not hesitate to apply the criteria: "This court recognizes that it has a duty to ensure that pro se litigants do not lose their right to hearing on the merits of their claim due to ignorance of technical procedural requirements." *See Balistreri v. Pacifica Police Dept.* 901 F.2d 696.699 (9th Cir. 1988).

BACKGROUNDS

1. Petitioner, Luis Antonio Ramos Villanueva, 54 years old, family man, married, born in Guadalajara, Jalisco, Mexican, professional and businessman, *See Exhibits, 1 to 5,*

[redacted] currently detained in the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, California, 92143.

2. Petitioner's due process rights have been violated because he has been subject to unreasonably prolonged detention, almost 16 months, violating the Fifth Amendment.

3. Petitioner is challenging constitutional in nature because the Immigration Judge failed to comport with the Due Process requirements when she denied his release bond.

4. Petitioner requests to be released due to various Constitutional Due Process violations committed by the Immigration Judge and the DHS, which are detailed below, among others, the Immigration Judge committed an abuse of discretion by not complying the proper individualized analysis of the case and the Petitioner's information. *See Doroteo Chavez v. Noem*, 2026 U.S. Dist. LEXIS 83463.

5. Conditions at the Otay Mesa Detention Center are punitive in nature, in violation of the Eighth Amendment and the Due Process Clause, such conditions of detention are punitive and not rationally related to any legitimate government purpose.

6. In this proceedings, the Petitioner presents his second habeas corpus petition, seeking his immediate release from ICE custody. Furthermore, the grounds that previously allowed the granting of habeas relief to the Petitioner remain valid. Additionally, there are new facts and grounds that severely affect him, causing irreparable harm to both him and his family, especially to his minor daughter, in violation of his constitutional rights.

7. On January 9, 2025, Petitioner attempted to enter the United States at the San Ysidro border crossing, where he was detained. Petitioner fled Mexico seeking asylum. Upon his detention he underwent a credible fear interview, which yielded a positive result.

8. Petitioner previously had a B1/B2 visa as well as a TN visa, which were both canceled upon his arrival; however, the basis for the cancellation is unclear. *See Exhibit 7*. Petitioner applied for asylum in the United States based on his political opinion and membership in

a particular social group. He was terminated from his employment due to having political differences with his former boss. Following his termination, petitioner won a lawsuit against his former boss and employer, who happens to be a person with sufficient influence in the Mexico's government.

9. On January 30, 2025, a second credible fear interview was conducted, also yielding a positive result.

10. On August 1, 2025, Petitioner had his final court hearing, in which it was very evident to him and his lawyer, that the Immigration Judge failed to read and review all the documentation and evidence provided. Furthermore, IJ misapplied the law, damaging the Petitioner's case by denying him any kind of relief.

11. Petitioner filed an appeal on August 7, 2025. That appeal has not been resolved to this day.

12. On December 19, 2025, Petitioner filed a habeas petition.

13. On January 26, 2026 the Court partially granted his habeas petition and ordered the government to provide a bond hearing and bear its burden to probe, by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk.

14. On February 2, 2026, at the bond hearing held before the Immigration Court at Otay Mesa Detention Center, the Immigration Judge, Olga E. Attia, found that Petitioner is not a danger to the community. The government failed to bear its burden, presented no criminal history, no allegations of violence, and no evidence of dangerous conduct.

15. Despite this finding, the Immigration Judge denied bond based primarily on the fact that a different Immigration Judge had previously denied Petitioner's asylum application, and concluded that this alone made Petitioner's flight risk.

16. Immigration Judge Attia first noted that it was not clear to her how Petitioner was eligible for a bond because he was an "arriving alien", but she stated she would comply with the Court's order and conduct the hearing. The DHS stated for the record that it bore the

burden of proving Petitioner was a danger or flight risk, though the attorney did not articulated the standard required.

17. The government did not present convincing evidence that Petitioner is a flight risk. There was no evidence that Petitioner ever failed to appear at for court, attempted to abscond, used false identification, violated immigration supervision, or show intent to evade immigration proceedings. Petitioner lacks of criminal record.

18. In her bond memo dated March 4, 2026, *See Exhibit 9*, IJ Attia cited two agency decisions supporting her finding of flight risk based on Petitioner's "limited relief". In the second case cited by IJ Attia, *Matter of Andrade*, 19 I&N Dec. at 491, the Board granted the respondent a bond, finding "that $ 10,000 bond is necessary to ensure the respondent's appearance at future immigration proceedings." If anything, that decision supports finding that a high bond amount is sufficient to ensure compliance with court orders. Furthermore, in the last paragraph the IJ improperly shifts the burden to the detainee and fails to comply her duty to ensure the due process.

19. The DHS presented no evidence about the basis for the denial of asylum in Petitioner's case and it was pure conjecture for the IJ to determine that his "eligibility for relief is speculative at this stage in proceedings."

20. A prior denial of asylum is not individualized evidence of flight risk and does not satisfy the clear-and-convincing standard ordered by the Court. Treating an asylum denial as proof of flight risk improperly shifts the burden to the detainee and fails to comply with the prior Court's habeas bond order, and violates the Due Process Clause.

21. On February 24, 2026, Petitioner filed an appeal against the denial of bond by Immigration Judge. *See Exhibit 21.*

22. Because the government failed to meet its burden and the Immigration Judge relied on an improper basis to deny bond, the bond decision constitutes non-compliance with the Court's order and violates the Due Process Clause. *See Exhibit 10.*

23. Moreover, the arguments advanced in the motion filed on March 5, 2026, by the Petitioner establish the government's evidence is neither clear nor convincing; this is reviewable by this Court because a prior Court ordered last January 26, 2026 a hearing where the DHS bore the burden and it is insufficient for Respondents to say that because the IJ articulated the correct standard when the evidence was presented the Court can do nothing more.

24. Petitioner requests immediate release because a new bond hearing at the Otay Mesa Immigration Court would be futile. By now Petitioner has participated in one bond hearing where the Immigration Judge failed to comport with the Due Process requirements and erred as a matter of law when she denied his request for release on bond, and abuse her discretion. In a similar case the First Circuit Court determined: "It makes little sense to provide him with another bond hearing." *See Picado v. Hyde*, No. 26-cv-065-JJM-PAS, 2026 LX 18501 (D.R.I. Feb 9, 2026).

DUE PROCESS

25. Due process extends to 'all persons' within the United States, including [non citizens], whether their presence here is lawful, unlawful, temporary, or permanent. *Zadvydas v. Davis* 533 U.S. 678, 693 (2001).

26. District courts in the Ninth Circuit and across the country regularly grant detained noncitizen habeas petitioners release under adequate conditions of supervision, when the government fails to provide them with a hearing consistent with prior orders of the court. *See, e.g. Mau v. Chertoff*, 562, F. Supp. 2D 1107, 1119 (S.D. Cal. 2008) (ordering petitioner's release when "the evidence before the IJ failed, as a matter of law, to prove flight risk or danger pursuant to the Court's order "); *Sales v. Johnson*, No. 16-CV-01745-EDL, 2017 WL 6855827, at *7 (N.D. Cal. Sept. 20, 2017) (ordering petitioner's release under appropriate

conditions of supervision when IJ failed to correctly apply clear and convincing standard in violation of court order); *Ramos v. Sessions*, 293 F. Supp. 3d 1021, 1036 (N.D. Cal. 2018), vacated and remanded sub nom. *Ramos v. Garland*, No. 18-15884, 2024 WL 933654 (9th Cir. Mar 1, 2024) (granting motion to enforce and ordering release under appropriate conditions of supervision when government failed to meet clear and convincing burden).

27. Over the past several months, Immigration Judges throughout the Country have been denying bonds at habeas-mandated bond hearings based on 'flight risk' at concerning rates *See Picado v. Hyde*, No. 26-cv-065-JJM-PAS, 2026 LX 18501 (D.R.I. Feb 9, 2026); *Said v. Noem*, No. 3:25-cv-938-MOC, 2026 LX 47279 (W.D.N.C. Feb. 4, 2026); *W.T.M. V. Bondi*, No. 2:25-cv-02428-RAJ-BAT, 2026 LX 50958, (W.D. Wash, Jan 30, 2026), the trend of constitutionally deficient bond hearings and the failure of many Immigration Courts to consider the individual merits of each detainee's bond eligibility is a concerning trend.

28. In the same way, the First District Court stated: "is mindful that, in recent months, Immigration Judges have faced enormous pressure from Executive Branch to dismiss cases quickly and rule certain ways. However, due process is not satisfied... by rubber stamp denial of bond, and Immigration Judges are not absolved of their duty to ensure that noncitizens receive constitutionally adequate bond hearings. The Immigration Judge does not have discretion to fail to apply the burden of proof that due process requires". *See Garcia v. Hyde*, 2025 LEXIS 253787.

29. Petitioner's due process rights have been violated because he has been subject to unreasonably prolonged detention, almost 16 months, since January 9, 2025. To determine whether a petitioner's detention has been unreasonably prolonged, Courts in the Ninth Circuit have applied the *Banda v. McAleeman's* six factor analysis. In a prior habeas petition, the Court granted a writ of habeas to the Petitioner, based on this analysis.

30. Applying the Banda six-factor framework here supports granting Petitioner's habeas petition.

31. Petitioner is challenging constitutional in nature because the Immigration Judge failed to comport with the Due Process requirements when she denied his release on bond. Different Courts across the country have stated, "this is 'precisely' the type of claim that belongs in Federal Court". *See Picado v. Hyde*, No. 26-cv-065-JJM-PAS, 2026 LX 18501 (D.R.I. Feb 9, 2026), *Lemus Crispin v. Bondi*, 2026 U.S. Dist. LEXIS; *Lozano Rosales v. Simon*, 2026 U.S. Dist. LEXIS 5660; *Segura v. Bondi*, 2026 U.S. Dist. LEXIS 50658; *Mejia v. Crawford*, 2026 U.S. Dist. LEXIS 63739; *Lopez v. Dillman*, 2026 U.S. Dist. LEXIS 50661.

32. Immigration detention *must* serve "two regulatory goals: ensuring the appearance of [noncitizens] at future immigration proceedings and preventing danger to the community." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (internal quotations and citations omitted). See also *Hernandez*, 872 F.3d at 900 (any detention incident to removal proceedings must "bear[] [a] reasonable relation" to the government's interest in mitigating the risks of danger to community and preventing flight); *Velasco Lopez v. Decker*, 978 F.3d 842, 857 (2d Cir. 2020) (the government "has no interest in the continued incarceration of an individual who it cannot show to be either a flight risk or a danger to his community".).

33. Where a noncitizen's detention becomes excessive in relation to its purpose of preventing flight or danger, it has become unconstitutionally punitive in violation of their substantive due process rights.

34. The clear and convincing standard is a heavy burden that must be demonstrated in fact, not in theory because the loss of freedom from confinement is significant.

35. The clear and convincing standard requires that evidence must establish "an abiding conviction that the truth of the factual contentions at issue is highly probable". *Mondaca-Vega v. Lynch*, 808 F3.d 413, 422 (9th Cir. 2015) (en banc). This standard sets a "high burden and must be demonstrated in fact, no 'in theory'". *Obregon v. Sessions*, No. 17-cv-01463-WHO, 2017 WL 1407889, at *7 (N.D. Cal. Apr. 20, 2017) (*quoting United States v. Patriarca*,

948 F.2d 789, 792 (1st Cir. 1991) (affirming the district court's conclusion that, although the government had demonstrated the defendant was a Mafia Boss and that, "in theory a Mafia Boss was an intimidating and highly dangerous character", it had failed to show that "this Boss posed a significant danger")).

36. Indeed, "deprivation of liberty should be a rare circumstance for noncitizens in immigration detention, reserved only for those who are a threat to national security or poor bail risks". *Obregon*, 2017 WL 1407889 at *9. In the context of criminal pretrial detention, the Supreme Court has provided that the clear and convincing evidence standard requires the Government to prove that a detained person "presents an identified and articulable threat to and individual or the community", and "no conditions of release can reasonably assure the safety of the community or any person". *Salerno*, 481 U.S. At 750-51; *see also Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241 (W.D.N.Y. 2019) ("If the clear and convincing standard means what it says, it cannot permit detention based on mere speculation that [a noncitizen's] release might possibly pose a danger".).

37. The Immigration Judge failed to hold the Government to the clear and convincing standard as to flight risk. The IJ correctly found that the DHS had failed to meet the burden of proof as to danger but incorrectly denied bond on a finding of flight risk alone. The IJ rested her flight risk finding on the fact that Petitioner's relief applications had been denied, this is insufficient evidence to meet the clear and convincing standard. *See Castellanos-Luna v. Pompeo*, No. C19-331-RSM-BAT, 2019 WL 3043964, at *5 (W.D. Wash. June 4, 2019) ("Like the Petitioner in *Singh*, Mr. Castellanos-Luna is subject to an administratively final order of removal *and* his request for relief from removal has been denied by the IJ and BIA. Under *Singh*, this alone is insufficient to justify the denial of bond."). She also found that Petitioner had limited family ties in the United States. However she failed to consider the individualized evidence presented or consider all other relevant factors.

38. The IJ did not place the burden of proof on the DHS, as she concluded that "Respondent failed to demonstrate that he does nos pose a risk of flight." Although the IJ notes in her bond memo (and also noted during the hearing) that the DHS bore the burden of proof, this statement is insufficient to insulate her decision from review, as she did not properly apply the burden. *See Nat'l. Res. Def. Council, Inc. v. Pritzker,* 828 F.3d at 1135. Rather, it is clear that she placed the burden on Petitioner when she explicitly found that "Respondent failed to demonstrate that he does not pose a flight risk." *See Exhibit* 9. The IJ gave significant weight to the fact that Petitioner's asylum application had been denied, though she briefly mentions other factors, the main basis for her flight risk finding was because she found "relief from removal is tenuous." *See Exhibit* 9.

39. Petitioner argues that it was an abuse of discretion for the IJ to consider the denial of Petitioner's asylum application as a meaningful basis to find him a flight risk. *See Doroteo Chavez v. Noem,* 2026, U.S. Dist. LEXIS 83463, where the Court finds more weight on the application of a "correct legal standard", in order to avoid the abuse of discretion.

40. The IJ did not provide the basis for the bond determination based on the relevant factors, and denied bond based only on the conclusory statement the Petitioner "has not demonstrated he is a flight risk". The Ninth Circuit concurs with this, considering the failure to properly apply the "legal standard" constitutes an abuse of discretion. Therefore a writ of habeas should be granted.

41. The denial of relief/entry of a removal order is insufficient under Ninth Circuit case law to support a flight risk finding. *See Singh,* 638 F.3d at 1205 (9th Cir. 2011); *Castellanos-Luna,* 2019 WL 3043964, at *5; *Sales,* 323 F. Supp. 3d at 1140-41 (reversing denial where "IJ appeared to rest his decision primarily on the fact" of a final removal order); *Diouf v. Napolitano,* 634 F.3d 1081, 1087 (9th Cir. 2011) abrogated on other rounds as recognized in *Rodriguez Diaz v. Garland,* 53 F.4th 1189, 1200-01 (9th Cir. 2022) ("Regardless of the stage of the proceedings, the same important interest is at stake-freedom from prolonged

detention.").

42. The Court should order Petitioner's immediate release from custody because his prolonged detention is violating his substantive due process right. Where an IJ has failed to hold a hearing that comported with due process following a district court order, courts have ordered release. *See, e.g. Judulang v. Chertoff*, 562 F. Supp. 2d at 1127 (holding that evidence before the IJ failed as manner of law to prove flight risk or danger, and ordering petitioner released); *Mau v. Chertoff*, 562 F. Supp 2d at 1119 (same); *Hechavarria v. Whitaker*, 358 F. Supp. 3d at 243-44 (same).

43. Respondents had the opportunity to afford Petitioner the due process he is entitled to and have failed to do so. For that reason, Petitioner seeks this Court's intervention. This Court should not permit Respondents to continue violating Petitioner's due process rights. The Court should either order Petitioner's immediate release or order whatever safeguards the Court deems appropriate for Petitioner to be released.

44. Moreover, in order for the Court to properly determine if the IJ applied the correct standard, the Court ought to review the merits of the IJ's findings. *See Ashemuke*, No. C23-1592-RSL, 2024 wl 4436949, AT *4 (W.D. Wash. Oct. 7, 2024) (reviewing evidence in the context of motion to enforce and finding that "the evidence that petitioner is a flight risk is neither clear nor convincing.").

45. Further, where a "bond denial is challenged as legally erroneous or unconstitutional," a district court in habeas proceedings retains jurisdiction over that challenge. *Mayancela v. FCI Berlin, Warden*, No. 25-cv-348-LM-TSM, 2025 WL 3215638, at *6 (D.N.H. Nov. 18, 2025); *Singh*, 638 F.3d at 1202.

46. There is no evidence in the record of the bond hearing about why asylum was denied, and this fact alone does not constitute clear and convincing evidence of flight risk.

47. The only evidence submitted by the DHS to meet the clear and convincing evidence standard for flight risk was the Notice to Appear, Form I-213, and the form removal order

entered against Petitioner. *See Exhibit 11.* While IJ Attia correctly found that this evidence was insufficient for the DHS to establish danger, she erred in finding that this evidence somehow constitutes clear and convincing evidence of flight risk.

ABUSE OF DISCRETION

48. According to the Ninth Circuit, this constitutes a violation not only of due process, but also an abuse of discretion, *See Doroteo Chavez v. Noem,* 2026 U.S. Dist. LEXIS 83463, where the court states: "However, a finding of dangerousness or flight risk based on those factual determinations involves the application of "a legal standard" "to a given set of facts", which is reviewable 'for an abuse of discretion' by federal courts in habeas." The IJ reference to other findings was tenuous, her principal pointing focused on the Petitioner's prior denial of any relief.

49. The flight risk is virtually impossible in the current context, due to all the technological resources, information and personnel at the government's disposal. Likewise, the mechanisms established decades ago (bond, parole, GPS) to prevent flight and ensure individuals' appearance in Immigration Courts have been very effective, otherwise, they would have been abandoned and replaced by new ones.

50. An abuse of discretion may be found in those circumstances where the Board's (the IJ in this case), provides no rational explanation, inexplicably departs from established policies, is devoid of any reasoning, or contains only summary or conclusory statements; that is to say, where the Board (IJ) has acted in an arbitrary and capricious manner. An inadequate explanation therefore constitutes an abuse of discretion as well. *See Ni v. Garland,* 2024 U.S. App. LEXIS 29330; *Ke Zhen Zhao v. U.S. Dep't of Justice,* 265 F.3d 83, 93 (2d Cir. 2001).

51. It is noteworthy that the IJ, on the one hand, rightly recognizes that the DHS did not met

its burden to demonstrate that the Petitioner is a danger to the community, due a lack of sufficient information. However, applying her own same criteria, the IJ erred in her decision to deny bond, considering as her main factor that another IJ had previously denied any form of relief. But it did so without having sufficient information or knowing the reason of the previous judge. Which is contradictory in itself. The IJ failed to conduct an individualized analysis. In her March 4, 2026 memo she states verbatim: "...the Court lacked any additional facts regarding the circumstances. As such, it concluded there was insufficient information to deem him a danger to the community." Additionally, it appears that the documentation provided was not properly reviewed. In that memo IJ refers to the sponsor as the Petitioner's sister's brother-in-law, when in reality he is his brother's brother-in-law. IJ also states that the Petitioner "appears to have been arrested in Mexico," which is false. Petitioner was never arrested in Mexico or anywhere else before arriving in the U.S. *See Exhibit* 9.

52. The IJ also errs in discrediting the sponsor for being an indirect relative of the Petitioner, which in fact is not an impediment or valid argument to consider him a flight risk. Here is a very significant example. For 40 years, "Casa Marianella" (www.casamarianella.org), one of the many organizations across the country, has been dedicated to supporting migrants by providing them with sponsorship. These organizations have no family or personal ties to the migrants, which has not prevented Immigration Judges from granting bond in the past. In recent years, over 90% of residents who have exited the shelter have successfully transitioned into permanent housing. *See Exhibit* 22.

EXHAUSTION

53. In its writ of habeas of January 26, 2026, the Court finds that factors 1 to 3 of the Banda

Test favor the Petitioner[1], mainly the first one, the most important, due to the prolonged time he has been detained -almost 16 months since 1-1-25) and factors 4 to 6 are neutral. Regarding the second factor, the Court implicitly acknowledges that it is impossible to know the duration of the appeals process before the BIA, given the backlog of pending cases, which works in favor of the Petitioner and is consistent with the discretionary power to waive the requirement of exhausting administrative remedies. The Court states verbatim: "As to the second factor, Petitioner has appealed the immigration judge's decision to the BIA; his appeal remains pending. Given the backlog of cases before the BIA and the possibility of a subsequent appeal to the Ninth Circuit, the Court finds this factor weighs in Petitioner's favor." 25-cv-3679-CAB-SBC.

54. It is worth noting that the sixth factor is considered neutral when recognizing "Finally, as to likelihood that the removal proceedings will result in a final order, the Court finds this factor neutral." In this sense, it reinforces the fact that the IJ erred in her decision to deny bond because she also did not have sufficient information to conclude that the removal proceedings would result in a final removal order and therefore assume the Petitioner is a flight risk. Moreover, the Court recognizes and establishes that "("Given the substantial liberty interest is at stake... we hold that the government must probe by clear and convincing evidence that an alien is a flight risk or a danger to community to justify denial of bond[.]")". *See Villanueva v. LaRose*, 2026 U.S. Disti. LEXIS 14097, 25-cv-3679-CAB-SBC.

55. On March 24, 2026, in its "Response to motion to enforce judgment", Government primarily argues Petitioner should be required to exhaust administrative remedies before pursuing habeas relief in this Court.

56. In the immigration context, "exhaustion for remedies is statutorily required only for appeals of final orders of removal." *See Quintana Casillas v. Sessions*, Civ. 17-01039-DME-

1 The Court in its writ dated January 26, 2026, mentions in line 19 of page 4 "In sum, factors factors two, four, five and six are neutral...", but the correct is "In sum, factors four, five and six are neutral...", therefore, factors one, two and three favor Petitioner.

CBS, 2017 WL 3088346, at *9 (D. Colo. Jul. 20, 2017) (citing *Hoang v. Comfort*, 282 F.3d 1247, 1254 (10th Cir. 2022), *cert. granted and judgment vacated on other grounds sub nom. by Weber v. Phu Chan Hoang*, 538 U.S. 1010 (2003)).

57. Many courts across the country agree that forcing exhaustion when there are no grounds for it, constitutes a violation of the due process, and therefore, such exhaustion must be waived. *See Gomez v. Noem*, 2026 U.S. Dist. LEXIS 27621, 26-cv-00134-BAS-VET. "Since the appeal addresses bond under § 1226(a) and not the revocation of Petitioner's parole, the BIA appeal is not likely to lead to any corrections mistakes. Furthermore, the appeal has been pending for seven moths without any resolution in sight. Since the appeal is unlikely to resolve the issues posed in this habeas petition and Petitioner is suffering irreparable injury by remaining in immigration custody without resolution, the Court finds prudential exhaustion is not necessary."

58. Similarly, courts in the Ninth Circuit agree that appealing to the BIA is largely pointless, given that its conclusions are, in a way, already predetermined. Such is the case of *Mejia v.* LaRose, U.S. Dist. LEXIS 234153, 25-cv-3071-RSH-AHG, where it is established that: "This Court, following other courts in this district, finds that exhaustion would be futile here because the Board of Appeals would be obligated to apply administrative precedent to conclude that detention is mandatory under 1225(b)(2). *See Hoyos Amado v. U.S. Dep't of Justice*, No. 25-cv-2687-LL-DDL, 2025 U.S. Dist. LEXIS 217453, 2025 WL 3079052, at *3 (Nov. 4, 2025) (collecting cases)."

59. Notably the removal order is not yet final, as Petitioner's appeal remains pending at the Board. *See* 8 C.F.R. § 1241.1. Moreover, as noted by the prior Court in its January 26, 2026, order Petitioner may pursue a petition for review with the Ninth Circuit Court of Appeals and upon obtaining a stay of removal, the order cannot be executed against Petitioner. Petitioner's removal order is, thus, nowhere near being a final order.

60. In *Ortiz v. Henkey*, 2026 U.S. Dist. LEXIS 78932, the 9th Circuit District Court of Idaho

reasonably with the law conducted an important and worrisome analysis of the current situation prevailing throughout the country, which is concerning. This analysis mentions that: "This case emerges from a legal system under strain. Although DHS' reinterpretation of § 1225 has been resoundingly rejected by federal courts, the Government continues to detain scores immigrants under the statute without the opportunity for bond hearings. This recalcitrance has generated a flood of habeas actions and threatens to overwhelm the federal judiciary. Courts have typically resolved these challenges by either simply releasing the petitioner or, as happened here, by ordering a bond hearing. Unfortunately, across the country the integrity of these bond proceedings has now been sharply into doubt." This Court's analysis allows to see more clearly the nationwide trend of a large number of Immigration Judges failing to adhere to due process when granting bond impartially.

61. Exhaustion in the habeas context "is a prudential rather than a jurisdictional requirement" *Singh v. Holder*, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011); *Ortiz v. Henkey*, 2026 U.S. Dist. LEXIS 78932. Moreover, in *Ortiz v. Henkey*, the Court "finds the reasoning of the District of Rhode Island persuasive. Particularly given the broader irregularities in bond hearings across the country administrative remedies in the immigration system appear no longer efficacious. Petitioner has been detained for almost four months. Mandating administrative remedies exhaustion would be a 'futile gesture' that prolongs this injury without crating a meaningful opportunity for the agency to correct its mistake. The Court will waive administrative exhaustion requirements". *See Picado v. Hyde*, No. 26-cv-065-JJM-PAS, 2026 LX 18501 (D.R.I. Feb 9, 2026).

62. The misguided practice of denying bond without regard for the law by a large number of Immigration Courts across the country is a matter of concern not only for those directly affected -detained immigrants and their families- but for the entire judicial system, given the clear violation of due process. In this regard, the Ninth Circuit Court, in *Ortiz v. Henkey* emphasizes: "Petitioner has also submitted evidence that Immigration Judges

across the country are systematically denying bond to alien detainees, regardless of the weight of the evidence. For example, a former legal counsel to Immigration and Customs Enforcement describes how immigration judges in the Eastern District of Virginia have "abruptly and uniformly ceased" granting bond in post-habeas cases. Dkt. 19-6 at 2. Courts have echoed these concerns. The Southern District of West Virginia noted evidence that "immigration judges who provide neutral adjudications have been removed, and bond is systematically denied after pro forma hearing with a predetermined outcome." *Chavez Ochoa*, 2026 U.S. Dist. LEXIS 39868, 2026 WL 541144, at *2 n.4. The District of New Jersey similarly observed "an established pattern of Respondents violating judicial orders." *Zheng*, 2026 U.S. Dist. LEXIS 60485, WL 800203, at *5. Although the District of Idaho has fortunately not experienced the "flagrant[] disregard[]" for court orders that has occurred in other districts, *see id.*, this pattern casts serious doubt on integrity of Petitioner's bond hearing in Washington".

63. Further, the exhaustion requirement may be waived if "administrative remedies are inadequate or nor efficacious, pursuit of administrative remedies would be a futile gesture, jury would result or the administrative proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (quotation marks and citations omitted).

64. According to First District Court in a similar Petitioner's case, exhaustion requirement is not necessary. There is not statute that require exhaustion under present circumstances. *See Garcia v. Hyde*, No. 25-cv-585-JJM-PAS, 2025 U.S. Dist LEXIS 253787, 2025 WL 3466312 at *5 (D.R.I. Dec. 3, 2025). Under this standard the Court may find exhaustion to be unnecessary where a plaintiff may suffer harm if unable to secure immediate judicial consideration of his claim. *See Tomas Elias v. Hyde*, 2025 U.S. Dist. LEXIS 210971; *Garcia v. Hyde*, 2025 U.S. Dist LEXIS 253787; *Higiro v. Michael Nessinger, Warden, Wyatt Det. Facility*, 2026 U.S. Dist. LEXIS 52268; *Cruz v. Bondi*, 2025 U.S. Dist. LEXIS 232476; *España v. Nessinger*, 2026 U.S. Dist. LEXIS 66754.

65. Alternatively, if the Court finds that exhaustion is required, the Court should waive it because Petitioner is suffering irreparable injury with his continuing prolonged detention, which has become unconstitutional. *See United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021) (quoting *United States v. Salerno*, 481 U.S. 739, 747 n.4 (1987)) ("It is undisputed that at some point, pretrial can 'become excessively prolonged, and therefore punitive', resulting in a due process violation".).

66. In addition, waiting for the Board's decision in the bond appeal will be inadequate and futile. Beginning 2025, the Trump administration reduced the number of BIA members. *See Exhibit 12.* This move is seen by many as an attempt to ensure that the smaller number of Board members are politically aligned with the Administration's anti-immigrant goals.

67. As such, if the Court finds that exhaustion applies, the Court should find futility excuses it, as the probability of the current Board neutrally considering whether to overturn the denial of bond is highly speculative and unlikely.

68. Hundreds of judges reject trump's mandatory detention policy, with no end in sight, Politico (Jan. 1, 2026 5:55 EST), https://www.politico.com/news/2025/11/28/trump-detention-deportation-policy- 00668961 [https://perma.cc/KAA4-Y8YF] (finding more than 300 federal judges in over 1,600 cases across the country have rejected the government's new detention policy, with over 100 lawsuits filed daily, while 14 federal judges have found in favor of the government's position). *See Exhibit 23.*

69. None of the Respondents' arguments for exhaustion are availing. Further, numerous courts have found exhaustion waived or excused in similar circumstances. *See Loba L.M. v. Andrews*, No. 1:25-cv-00611-JLT-SAB, 2026 WL 710307, at *5 (E.D. Cal. Mar. 13, 2026); *Estrada-Samayoa v. Cruz*, No. 1:25-CV-01565-EFB (HC), 2025 WL 3268280, at *8 (E.D. Cal. Nov. 24, 2025) (collecting cases); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1254 (W.D. ash. 2025) (waiving prudential exhaustion requirement in similar circumstances); *Marroquin Ambriz v. Barr*, 420 F. Supp, 3d 953, 962 (N.D. Cal. 2019); *J.A.C.P.*, 2025 WL 3013328, at 7,

n.9; *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO (HC), 2025 WL 2617256, at *3 (E.D. Cal. Sept. 9, 2025); *see generally Rodriguez Diaz v. Barr*, No. 4:20-cv-01806-YGR, 2020 WL 1984301, at *5 (N.D. Cal. Apr. 27, 2020) (collecting cases).

70. In addition to the arguments raised in the motion filed by the Petitioner on March 5, 2026, the Court may also excuse exhaustion because the BIA appeal process is inefficient. In *Garcia v. Hyde*, the court found that forcing the Petitioner to go to through a BIA appeal first, would cause "further irreparable harm and hardship." No. 25-CV-585-JJM-PAS, 2025 WL 3466312, *6 (D.R.I. Dec. 3-2025) (citing *Gomez v. Hyde*, 804 F. Supp. 3D 265, 272 (D. Mass. 2025).

71. The denial of relief in no way supports finding that Petitioner will abscond or fail to abide by any conditions set. In fact, the record establishes Petitioner's strong motivation to resolve his situation. In Mexico, when faced with a labor dispute with his former employer, Petitioner successfully litigated the issue and prevailed in court.

72. During the bond hearing, Petitioner's attorney, Attorney Emily Neubert, advised IJ Attia that her firm handles not only BIA appeals but petitions for review as well. Given Petitioner's strong educational background and past litigation experience, it is clear that he will avail himself of all legal remedies available for him. He has a strong motivation to resolve his case and the denial of relief, where the BIA appeal remains pending is by no means the end of the line.

73. By relying on the denial of relief, the IJ failed to conduct and individualized analysis, as her flight risk finding can be applied to all respondents who have had an asylum application denied. Although the IJ briefly mentioned Petitioner's "limited family ties", she failed to give any consideration to the documentation Petitioner submitted from his U.S. citizen sponsor, which establishes that he has a fixed address and a sponsor willing to be responsible for him. *See Exhibit 20.* Her only consideration of the sponsor's documentation was referring to the sponsor as Petitioner's sister's brother-in-law.". In fact,

Petitioner's sponsor is his brother's brother-in-law, not his sister's brother-in-law.

74. However, Petitioner's relationship to his sponsor does not justify refusing to give the sponsor's documentation any weight. In fact, an argument can be made that a sponsor paying a bond for an individual who is not a close family member will be more motivated to ensure compliance with the order, to get his money returned. Whereas a close family member might be bound by familial loyalty and the demands of other family members to look the other way and place a higher value on the individual than return money.

75. In addition, the IJ failed to consider that Petitioner had previously been vetted by the U.S. government who issued his prior nonimmigrant visas and that he had complied with the terms of these past visas.

76. The IJ briefly mentions having considered "his prior visas" but she fails note the significance of the fact that Petitioner previously had visas. Moreover, Petitioner has held a B1/B2 visa for decades, has visited the United States many times for vacations, has always respected the limits of stay and has returned to his country every time. *See Exhibits 7 and 8.* In addition, DHS did not argue that the visa cancellations supported flight risk, and the record does not support such finding, as the only information available is a statement in the I-213 that the visas were canceled by CBP for violations of the INA; however, the record contains no information about what the alleged violations were. *See Exhibit 11.*

77. Although the IJ stated that Petitioner might be well-educated, she failed to truly give this fact any weight *See Exhibits 3 to 5.* As a well-educated individual, who successfully won a lawsuit against his former employer in Mexico, Petitioner has an understanding for the repercussions of failing to abide by court orders and would be more likely to comply than an individual with less education or experience with the judicial system.

78. He has no history of prior immigration violations -as noted multiple times throughout this petition, other than a conclusionary statement by CBP, there is no information about

why Petitioner's nonimmigrant visas were revoked-. He further has family in the United States including his parental aunt and although not directly related to him his U.S. citizen sponsor is the brother-in-law of his brother. Finally, the evidence in record -which was not refuted or counterbalanced by the DHS- establishes that the arrest warrant in Mexico is frivolous and retaliatory, *See Exhibits 13 to 15*. The IJ gave significant weight to the denial of his relief application, which is insufficient for her to have found that Petitioner would not comply with court orders.

UNCONSTITUTIONAL CONDITIONS OF DETENTION

79. Petitioner is currently in Respondent's legal and physical custody. They are detaining him at Otay Mesa Detention Center in San Diego, California. CoreCivic Inc., a Maryland Corporation, operates the facility. He is under Respondent's and their agents' direct control.

80. Conditions at the Otay Mesa Detention Center are punitive in nature, in violation of the Eighth Amendment and the Due Process Clause, such conditions of detention are punitive and not rationally related to any legitimate government purpose. He is not a flight risk or a danger to the community.

81. Every day that Petitioner remains detained causes him harm that cannot be repaired. Petitioner suffers from PTSD, insomnia, anxiety, paranoia, hopelessness and depression. His continued detention puts his physical and mental health at greater risk, further warranting a waiver of the prudential exhaustion requirement. *See Exhibit 16*. Only by experiencing it firsthand can one fully understand the magnitude of what it means to suffer irreparable injury.

82. While the immigration laws afford ICE discretion over its decisions to arrest, detain, and

revoke prior release decisions, those decisions are nonetheless constrained by the law Congress has enacted and the requirements of the Constitution including the Due Process Clause. See generally Id. at 690; *Hernandez v. Sessions*. 872 F.3d 976, 981 (9th Cir. 2017).

83. This is because the freedom from imprisonment from government custody, detention, or other forms of physical restraint lies at the heart of the liberty that the Due Process Clause protects. "It is well established that the 'deprivation of constitutional rights' unquestionably constitutes irreparable injury. The Ninth Circuit has further recognized the irreparable harms suffered by those in ICE detention, including 'subpar medical and psychiatric care... economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained'." *See Zadvydas v. Davis, 533 U.S. at 690; Palafox v. Semaia,* 2026 U.S. Dist. LEXIS 66819; *Creech v. Engleman,* 2026 U.S. Dist. LEXIS 62913; *Hezardastan v. Noem,* 2025 U.S. Dist. LEXIS 268996.

84. It is important to emphasize that the irreparable injury caused by these anti-immigrant policies not only affects those detained and their families, but also severely impacts the United States due to the detrimental effects on its economy. The public treasury is severely affected in two ways. On the one hand, it incurs enormous and unnecessary expenses to capture and detain people in prisons, and on the other, it loses the tax revenue that these people previously generated. Furthermore, the consumption of goods and services in the national economy decrease significantly.

85. However, and even more serious, is the fact that the flagrant violation of this country's laws is being allowed to continue unabated. Without strict adherence to the law, it is only a matter of time before its effects directly impact its citizens. Without a strong rule of law, the foundations of any nation erode and it succumbs sooner or later. Unquestioning respect for the Constitution must prevail.

86. Petitioner has been detained by ICE for almost 16 months and his results form the BIA are

not foreseeable. If the BIA do not render a favorable decision, Petitioner plans on appealing again to the BIA and subsequent Courts. This period is well beyond the presumptively reasonable six-month period set forth in *Zadvydas*, 533 U.S. at 701.

87. Courts throughout the country have acknowledge the unpredictability of immigration court proceedings and the variances in length of detention. While the Court cannot definitively determine the duration of petitioner's future detention, based on the current record, it appears likely petitioner will face many more months and potentially years in detention, especially when there is a petition for review before the Court of Appeals.

88. Additionally many courts have concluded that the 'loss of liberty' arising from immigration detention in ICE custody is a severe form of irreparable injury. *See Guzman v. Andrews*, 2025 U.S. Dist. LEXIS 176145; *Picado v. Hyde*, No. 26-cv-065-JJM-PAS, 2026 LX 18501 (D.R.I. Feb 9, 2026); *Garcia v. Hyde*, No. 25-cv-585-JJM-PAS, 2025 U.S. Dist LEXIS 253787; (quoting *Ferrara v. United States*, 370 F. Supp. 2D 351, 360 (ID Mass, 2005)); *Tomas Elias v. Hyde*, 2025 U.S. Dist. LEXIS 210971. This loss of liberty is further compounded due to the considerable amount of time -up to six months or more, in many cases- it takes for the BIA to decide bond appeals. *See Rodriguez v. Bostock*, 779 f. Supp. 3D 1239, 1248-49 (W.D. Wash. 2025) (According to data released by the Executive Office for Immigration Review, the average processing time for bond appeals exceeded 200 days in 2024). Therefore BIA's decision may delay an indefinite prolonged time, and its very likely that Petitioner would face further irreparable harm and hardship. Petitioner's case is similar as in *Picado v. Hyde*, where Court determined not to require Mr. Picado to: "sit in an ICE detention facility for six months while awaits a BIA decision. Any exhaustion requirement is hereby waived, and the Court proceeded to the merits of Mr. Picado's petition...".

89. Courts have recognized that the conditions at the Otay Mesa Detention Center are "indistinguishable from penal confinement". *See Hamideh Sadeqi v. Larose*, 809 Supp. 3D 1090; *Amado v. United States DOJ*, 2025 U.S. Dist. LEXIS 217453; *Kadir v. Larose*, 2025 U.S.

Dist. LEXIS 203614. Petitioner's medical records indicate that his mental condition and PTSD has been exacerbated by his detention and puts him at risk of further deterioration. *See Exhibits 16 and 17.* Petitioner has also been subject to verbal abuse, inedible food quality and unsanitary conditions. These conditions of confinement also raise constitutional concerns as Petitioner's mental health (depression, PTSD, sleep insomnia, anxiety, paranoia, hopelessness and experiences severe episodes of depression.) is deteriorating by the day. It continue to deteriorate if he remains under the stressors that cause it, according to the certified LMFT of CoreCivic. *See Exhibit 16.*

90. Conditions at the Otay Mesa Detention Center are punitive in nature, in violation of the Eighth Amendment. The food is often inedible (e.g. spoiled meat, stale rice, excessive amount of carbohydrates, *See Exhibit 19* old beans and rice, sometimes with insects and under cooked food). Furthermore, detainees are not given fruit, leaving them without the possibility of consuming the vitamins necessary for their bodies. There is not set mealtime. Detainees can sometimes go up to 9 hours without food (from 5:00 am until 2:00 pm), or in other cases eat after only 3 hours since the last meal (from 2:00 pm until 5:00 pm), and then don't eat anything until the next day, which causes malnutrition and eating disorders affecting Petitioner's health. The facility is overcrowded causing frequent exposure to respiratory illnesses like COVID 19 and the flu. Petitioner recently was sick for over a week with influence A, without the proper medication. *See Exhibit 18.* And the bathrooms are so filthy they are almost unusable.

CONCLUSION

For all the above reasons, the Court ought to order Petitioner's immediate release from custody and enjoin Respondents from detaining him during the pendency of these proceedings. Without such an order, Petitioner will continue to suffer an unlawful deprivation of his liberty

with no end in sight and without no other available remedy.

No political or ideological trend should supersede the Constitution and Human Rights.

Viewed in the full context, the denial of bond by immigration judges and the impossibility of reversing this unconstitutional effect in the higher courts leaves people in the position of a deficient application of law and justice because it goes against the Constitution and the principles that forged this country, among which, the main one, is liberty.

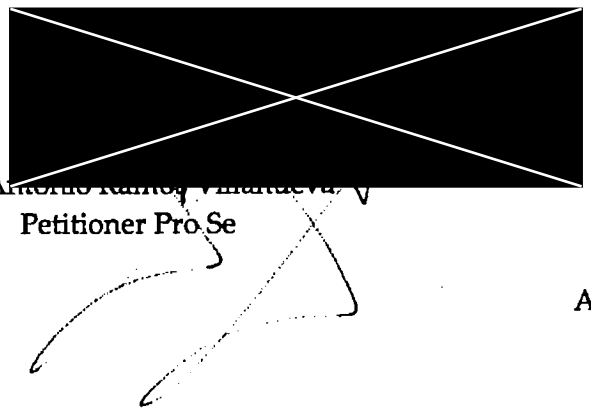
Unfortunately, the fate of our lives, on certain occasions, is in the hands of people whose decisions are affected either by their mood, likes or dislikes, rather than by the unrestricted respect for the law, and those decisions can sometimes, as in my case, cost us our lives.

WHEREFORE, the Petitioner prays that this Court grant the following relief:

1. Issue a writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately;
2. Enjoin Respondents from transferring Petitioner outside the jurisdiction of District Court of Southern California, and particularly from Otay Mesa Detention Center, pending the resolution of this case;
3. Order to provide an attorney for Petitioner's representation;
4. In the alternative, conduct an immediate bond hearing before a different Immigration Judge where DHS bear its burden of justifying Petitioner's continued detention by clear and convincing evidence that Petitioner is a flight risk or a danger to community. And enjoin the Immigration Judge and Respondents from denying Petitioner bond;
5. In the option, the Immigration Judge grant a bond for a reasonable amount because the

Ninth Circuit has correctly suggested that serious questions may arise concerning the reasonableness of the amount of the bond if it has the effect of preventing an alien's release. *See Phong Doan v. INS*, 311 F.3d 1160, 1162 (9th Cir. Cal. 2002).

I declare under penalty or perjury that the foregoing is true and correct, to the best of my knowledge and belief.



Luis A[redacted]

Petitioner Pro Se

April 27, 2026.