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7 **UNITED STATES DISTRICT COURT**  
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 **Rabia Betul Yildiz,**

Case No.: 26-cv-02863-JLS-VET

10 Petitioner

**TRAVERSE TO WRIT OF HABEAS  
CORPUS**

11 vs.

12 **Christopher J LaRose, et al.,**

13 **RESPONDENTS**  
14

15 **TRAVERSE TO WRIT OF HABEAS CORPUS**

16  
17 Petitioner Rabia Betul Yildiz (“Petitioner” or “Ms. Yildiz”), by and through undersigned  
18 counsel, respectfully submits this Traverse in response to Respondents’ Return to Petition  
19 for Writ of Habeas Corpus.

20 Dated this May 18, 2026

21  
22 *Sajjad Hussain*

23 /s/Sajjad Hussain  
24 Sajjad Hussain, Esq.

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28 **TRAVERSE TO WRIT OF HABEAS CORPUS**

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3 **I. INTRODUCTION**

4 1. Respondents seek to reduce this case to a simple statutory detention matter under 8 U.S.C.  
5 § 1225(b)(2), arguing that Petitioner’s continued confinement is mandatory and entirely  
6 insulated from constitutional scrutiny. That position is inconsistent with longstanding habeas  
7 principles, the Due Process Clause, and the Supreme Court’s repeated recognition that civil  
8 immigration detention cannot become unreasonably prolonged without meaningful  
9 procedural safeguards.

10 2. Petitioner has now remained continuously detained at the Otay Mesa Detention Center since  
11 September 5, 2025, approximately eight months, without any bond hearing before a neutral  
12 decisionmaker. Her removal proceedings remain ongoing because her appeal before the  
13 Board of Immigration Appeals is still pending. Respondents concede there is currently no  
14 administratively final order of removal. Thus, there is no meaningful end in sight to  
15 Petitioner’s confinement.

16 3. Petitioner is not challenging the Government’s authority to place her in removal  
17 proceedings. Nor is she seeking termination of proceedings or interference with the  
18 adjudication of her immigration case. Instead, she challenges only the constitutionality of  
19 her prolonged civil detention without an individualized custody hearing.

20 Respondents rely primarily on 8 U.S.C. § 1252(g), *Jennings v. Rodriguez*, 583 U.S. 281  
21 (2018), *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), and *DHS v.*  
22 *Thuraissigiam*, 591 U.S. 103 (2020). None of those authorities resolves the constitutional  
23 question presented here. *Jennings* addressed statutory interpretation and expressly declined  
24 to decide the due process issue. *Mezei* involved exclusion-era doctrine and national security  
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1 concerns far from the facts presented here. Thuraissigiam addressed the scope of judicial  
2 review over expedited removal proceedings, not whether the Government may indefinitely  
3 detain an asylum seeker without a bond hearing.

4  
5 4. The central issue before this Court is straightforward: whether the Government may continue  
6 to detain a nineteen-year-old asylum seeker with serious medical and psychological  
7 conditions for many additional months—potentially years—without any neutral  
8 determination that her confinement remains necessary. The Constitution does not permit  
9 such prolonged civil detention without meaningful procedural safeguards.

10  
11 5. Accordingly, this Court should grant the Petition and order either Petitioner’s immediate  
12 release under reasonable conditions or, at minimum, an individualized bond hearing at which  
13 Respondents bear the burden of establishing by clear and convincing evidence that continued  
14 detention is necessary.

15 **II. THIS COURT RETAINS JURISDICTION UNDER 28 U.S.C. § 2241**

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17 6. Respondents first contend that this Court lacks jurisdiction pursuant to 8 U.S.C. § 1252(g)  
18 because Petitioner’s detention allegedly “arises from” the Government’s decision to  
19 commence removal proceedings. That argument fundamentally mischaracterizes both the  
20 limited scope of § 1252(g) and the nature of Petitioner’s claim.

21  
22 7. Section 1252(g) strips jurisdiction only over three discrete actions: the decision or action to  
23 commence proceedings, adjudicate cases, or execute removal orders. *Reno v. Am.-Arab*  
24 *Anti-Discrimination Comm.* (“AADC”), 525 U.S. 471, 482 (1999). The Supreme Court has  
25 repeatedly instructed courts to construe this provision narrowly. *Id.*

26  
27 Petitioner does not challenge any of those three discrete actions. She does not seek  
28 termination of proceedings, review of the Immigration Judge’s merits determination, or an

1 injunction against execution of a removal order. Rather, she challenges only the  
2 constitutionality of her prolonged confinement without any neutral custody determination.

3 8. The distinction is critical. Petitioner’s habeas claim is analytically independent from the  
4 underlying removal proceedings. The relief sought, a constitutionally adequate bond hearing  
5 or release, would not interfere with the Government’s ability to continue prosecuting  
6 removal proceedings.

7  
8 9. The Supreme Court has repeatedly recognized the continued availability of habeas review  
9 over immigration detention claims. See *Jennings*, 583 U.S. at 292–93; *Zadvydas v. Davis*,  
10 533 U.S. 678, 687–88 (2001). Likewise, the Ninth Circuit has consistently recognized  
11 federal jurisdiction over constitutional challenges to immigration detention. See *Rodriguez*  
12 *Diaz v. Garland*, 53 F.4th 1189, 1197–98 (9th Cir. 2022).

13  
14 10. Respondents’ interpretation of § 1252(g) would effectively immunize prolonged executive  
15 detention from judicial review whenever removal proceedings remain pending. Such a  
16 sweeping interpretation would raise profound Suspension Clause concerns because it would  
17 extinguish the historic core of habeas corpus review: judicial inquiry into the legality of  
18 executive detention.

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20 This Court therefore retains jurisdiction under 28 U.S.C. § 2241.

21 **III. JENNINGS DOES NOT RESOLVE THE CONSTITUTIONAL QUESTION**  
22 **PRESENTED HERE**

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24 11. Respondents rely on *Jennings v. Rodriguez* for the proposition that § 1225(b)(2) mandates  
25 detention without bond hearings and without temporal limitation. But *Jennings* resolved only  
26 a question of statutory interpretation. The Supreme Court expressly declined to decide the  
27 constitutional question now before this Court.

1 12. In *Jennings*, the Court held that the Ninth Circuit improperly used the canon of constitutional  
2 avoidance to read implicit bond-hearing requirements into § 1225(b). 583 U.S. at 299–305.  
3 Critically, however, the Court remanded the constitutional claims for further consideration  
4 and expressly declined to decide whether prolonged detention without a bond hearing  
5 violates due process. *Id.* at 305–06.  
6

7 13. Thus, *Jennings* does not authorize indefinite or unreasonably prolonged detention without  
8 constitutional safeguards. To the contrary, *Jennings* left open precisely the constitutional  
9 issue presented here. The Supreme Court has repeatedly emphasized that freedom from  
10 physical restraint lies at the core of the liberty protected by the Due Process Clause.  
11 *Zadvydas*, 533 U.S. at 690. Even in the immigration context, civil detention remains  
12 constitutionally permissible only so long as it bears a reasonable relation to its regulatory  
13 purposes and does not become excessive in relation to those purposes.  
14

15 14. The constitutional concerns become especially acute where detention grows prolonged and  
16 indeterminate. In *Demore v. Kim*, the Supreme Court upheld mandatory detention under §  
17 1226(c) largely because the detention at issue was understood to be brief and finite. 538 U.S.  
18 510, 529–30 (2003). The Court repeatedly emphasized that detention typically lasted only a  
19 matter of months.  
20

21 15. Petitioner’s detention has already exceeded eight months, and there is no realistic indication  
22 that proceedings will conclude soon. Her BIA appeal remains pending, and additional  
23 judicial review may follow. Thus, unlike the brief detention contemplated in *Demore*,  
24 Petitioner’s confinement has become prolonged and effectively indeterminate.  
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1 **IV. PETITIONER'S PROLONGED DETENTION VIOLATES DUE PROCESS**

2 16.The Due Process Clause requires greater procedural protection as the duration of civil  
3 detention increases. At some point, prolonged immigration detention without an  
4 individualized hearing becomes constitutionally unreasonable. Courts evaluating prolonged  
5 detention claims commonly apply the balancing framework set forth in *Mathews v. Eldridge*,  
6 424 U.S. 319 (1976). Under that framework, the Court considers: (1) the private interest  
7 affected; (2) the risk of erroneous deprivation absent additional safeguards; and (3) the  
8 Government's interest.  
9

10 Each factor strongly favors Petitioner.  
11

12 **A. Petitioner's Liberty Interest Is Extraordinary**

13 17.Petitioner's interest in freedom from physical restraint is fundamental. She has now spent  
14 approximately eight months confined in a secure detention facility despite having no  
15 criminal history and despite the civil nature of immigration detention.  
16

17 The conditions of confinement closely resemble penal incarceration. Petitioner's liberty is  
18 severely restricted, her movement is controlled, and she remains separated from family and  
19 community support.

20 18.Moreover, the consequences of detention are particularly severe in this case because  
21 Petitioner suffers from significant medical and psychological conditions. As detailed in the  
22 Petition, Petitioner suffers from a herniated intervertebral disc causing chronic pain,  
23 numbness, weakness, and difficulty walking. She also suffers from severe anxiety,  
24 depression, insomnia, panic attacks, and trauma-related symptoms. Her mental health has  
25 deteriorated substantially during detention. The prolonged nature of confinement  
26 exacerbates her psychological suffering and aggravates her medical vulnerabilities.  
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1           **B. The Risk of Erroneous Deprivation Is Severe**

2 19. The risk of erroneous deprivation is exceptionally high because Petitioner has never received  
3 any individualized custody determination before a neutral adjudicator. Respondents continue  
4 to detain Petitioner automatically under their interpretation of § 1225(b)(2), without any  
5 assessment of whether she actually presents a danger or flight risk. Due process generally  
6 requires individualized review when liberty is significantly restrained. Here, no neutral  
7 decisionmaker has ever evaluated whether continued detention remains necessary after eight  
8 months of confinement. The absence of any hearing creates a substantial risk of erroneous  
9 deprivation because detention decisions are being made categorically rather than  
10 individually.  
11

13           **C. The Government's Interests Do Not Justify Continued Automatic Detention**

14 20. The Government undoubtedly possesses legitimate interests in ensuring appearance at  
15 proceedings and protecting public safety. But those interests do not justify automatic  
16 prolonged detention without any individualized review. Petitioner is a young asylum seeker  
17 with no criminal history. Respondents have never alleged that she poses a danger to the  
18 community. Nor have Respondents established that alternatives to detention would be  
19 insufficient to address any flight concerns. Importantly, a bond hearing would not prevent  
20 the Government from continuing detention where justified. It would merely require  
21 Respondents to demonstrate before a neutral adjudicator that continued confinement remains  
22 necessary. The modest procedural safeguard requested here imposes minimal burden on the  
23 Government compared to the profound liberty interests at stake.  
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1           **V. MEZEI AND THURAISSIGIAM DO NOT AUTHORIZE PROLONGED**  
2           **DETENTION WITHOUT PROCESS**

3 21.Respondents’ reliance on Mezei and Thuraissigiam is misplaced. Mezei involved an  
4 exclusion-era national security case concerning an individual detained on Ellis Island after  
5 being denied entry following travel abroad. 345 U.S. at 208–10. The case arose in an entirely  
6 different statutory and constitutional landscape. Moreover, Mezei involved sensitive  
7 national security considerations which do not present here. Petitioner is a nineteen-year-old  
8 asylum seeker with no criminal history and no allegation whatsoever of national security  
9 concerns.  
10

11  
12 22.Likewise, Thuraissigiam addressed the scope of judicial review available in expedited  
13 removal proceedings. 591 U.S. at 107–08. It did not involve prolonged detention pending  
14 removal proceedings before an Immigration Judge and the BIA. Nothing in Thuraissigiam  
15 held that the Government may indefinitely detain asylum seekers without constitutional  
16 limitations. Indeed, the case addressed review of removal determinations—not prolonged  
17 civil detention. The constitutional question presented here therefore remains unresolved by  
18 either Mezei or Thuraissigiam.  
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20           **VI. PETITIONER’S DETENTION HAS BECOME UNREASONABLY**  
21           **PROLONGED**

22 23.Petitioner has now remained detained for approximately eight months. That period already  
23 substantially exceeds the brief detention contemplated in Demore. Moreover, detention is  
24 likely to continue for many additional months because proceedings before the BIA remain  
25 pending and further judicial review may follow.  
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1 Courts have repeatedly recognized that prolonged immigration detention without a hearing  
2 raises serious constitutional concerns once detention extends beyond six months. See  
3 Rodriguez Diaz, 53 F.4th at 1197; Zadvydas, 533 U.S. at 701.

4  
5 24. The prolonged nature of Petitioner’s detention is especially significant because there is no  
6 realistic indication that her proceedings will conclude in the near future. The Court must  
7 consider not only the length of detention that has already occurred, but also “how long the  
8 detention is likely to last.” Lopez, 631 F. Supp. 3d at 881 (citation omitted). Courts have  
9 repeatedly recognized that “[when] removal proceedings are unlikely to end soon, this  
10 suggests that continued detention without a bond hearing is unreasonable.” Id. (quoting  
11 German Santos v. Warden Pike Cnty. Corr. Facility, 965 F.3d 203, 211 (3d Cir. 2020)).

12  
13 25. Here, Petitioner’s appeal before the Board of Immigration Appeals remains pending, and  
14 depending upon the outcome of those proceedings, either party may seek further review  
15 before the Ninth Circuit Court of Appeals. As a practical matter, such proceedings frequently  
16 require many additional months and, in some cases, years before reaching final resolution.  
17 Accordingly, Petitioner’s detention is not meaningfully time-limited. Instead, absent judicial  
18 intervention, her confinement is likely to continue for a substantial and indeterminate period  
19 of time.  
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22 26. Courts confronting similar circumstances have consistently concluded that the likelihood of  
23 prolonged appellate proceedings weighs strongly in favor of finding continued detention  
24 without a bond hearing constitutionally unreasonable. See Banda, 385 F. Supp. 3d at 1119  
25 (finding this factor favored petitioner where asylum proceedings remained pending before  
26 the BIA and recognizing that the appellate process could take “two years or longer”); Abdul  
27 Samed v. Warden of Golden State Annex Det. Facility, 2025 WL 2099343, at \*7 (E.D. Cal.  
28

1 July 25, 2025) (“Petitioner’s possible administrative appeal and judicial review by the Ninth  
2 Circuit will be sufficiently lengthy such that this factor weighs in favor of Petitioner”).  
3 Likewise, courts in *Loba L.M. v. Andrews*, 2025 WL 2939178, at \*6 (E.D. Cal. Oct. 16,  
4 2025), adopted, 2025 WL 3187577 (E.D. Cal. Nov. 14, 2025), and *Rowe*, 2026 WL 879487,  
5 at \*4, similarly recognized that ongoing administrative and judicial review rendered  
6 detention effectively prolonged and supported relief.  
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8 27. The record also does not reflect that Petitioner has engaged in delay tactics or unnecessarily  
9 prolonged proceedings. To the contrary, the duration of confinement stems primarily from  
10 the ordinary pace of immigration litigation and appellate review. Courts evaluating  
11 prolonged detention claims have emphasized that “the operative question should be whether  
12 the alien has been the cause of delayed immigration proceedings and, where the fault is  
13 attributable to some entity other than the alien, the factor will weigh in favor of concluding  
14 that continued detention without a bond hearing is unreasonable.” *Doe v. Andrews*, 2025  
15 WL 2590392, at \*8 (E.D. Cal. Sept. 8, 2025) (citation omitted). Here, there is no indication  
16 that Petitioner bears responsibility for the extended duration of proceedings. Rather, she has  
17 merely pursued the legal remedies expressly provided under the immigration laws to seek  
18 protection from removal.  
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21 28. Under these circumstances, Petitioner’s detention has become prolonged, indeterminate, and  
22 constitutionally unreasonable. The absence of any individualized custody determination  
23 despite the substantial likelihood of continued confinement weighs heavily in favor of  
24 habeas relief.  
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1           **VII. IF THIS COURT ORDERS A BOND HEARING, DUE PROCESS**  
2           **REQUIRES FUNDAMENTAL PROCEDURAL SAFEGUARDS**

3 29.If this Court determines that a bond hearing is the appropriate remedy, the hearing must  
4 include constitutionally adequate procedural protections. First, Respondents must bear the  
5 burden of proof by clear and convincing evidence. Singh v. Holder, 638 F.3d 1196, 1203–  
6 05 (9th Cir. 2011). Second, the Immigration Judge must consider alternatives to detention  
7 and whether any release conditions could reasonably mitigate flight risk concerns. Third,  
8 any bond amount must take into account Petitioner’s ability to pay. A constitutionally  
9 adequate hearing cannot result in de facto continued detention through imposition of  
10 unattainable financial conditions. Finally, the hearing must occur promptly.  
11

12           **VIII. CONCLUSION**

13 For the foregoing reasons, Petitioner respectfully requests that this Court:  
14

- 15 1. Grant the Petition for Writ of Habeas Corpus;  
16 2. Order Petitioner’s immediate release under reasonable conditions of supervision; or  
17 alternatively,  
18 3. Order Respondents to provide Petitioner with a constitutionally adequate individualized  
19 bond hearing before an Immigration Judge within a time certain, at which Respondents bear  
20 the burden of establishing by clear and convincing evidence that continued detention is  
21 necessary; and  
22 4. Grant such other and further relief as the Court deems just and proper.  
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25  
26 May 18, 2026

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28 TRVERSE TO WRIT OF HABEAS CORPUS