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7 UNITED STATES DISTRICT COURT  
8 Southern District of California

9  
10 LEYDA MARQUINA SANCHEZ,  
11 Petitioner,

12 v.

13 CHRISTOPHER J. LaROSE, Senior Warden  
Otay Mesa Detention Center; TODD  
14 BLANCHE, Acting United States Attorney  
General; MARKWAYNE MULLIN, Secretary of  
15 the Department of Homeland Security;  
16 PATRICK DIVVER, ICE San Diego Field  
Office Director, in their official capacities,

17 Respondents.  
18


) Case Number: '26CV2928 LEK DDL

) **VERIFIED PETITION FOR WRIT OF  
HABEAS CORPUS**

) Oral Argument Requested

19  
20 Petitioner alleges:

21 **INTRODUCTION**

22 1. Petitioner LEYDA MARQUINA SANCHEZ (  ), a citizen of  
23 Venezuela, is subjected to unlawful detention by Respondents at the Otay Mesa Detention Center.  
24 Petitioner is a credible fear referral with a pending removal case in immigration court. Respondents  
25 have detained petitioner for over six months without holding an individualized bond hearing.  
26 Petitioner seeks a prompt and individualized bond hearing, where respondents must justify  
27 Petitioner's continued detention by a showing of clear and convincing evidence that Petitioner  
28 would likely flee or pose a danger to the community if released.

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**JURISDICTION**

2. This action arises under the Constitution of the United States; the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq*; and the Administrative Procedures Act (“APA”), 5 U.S.C. § 500, *et seq*.

3. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus; 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (All Writs Act); 5 U.S.C. § 701 *et seq*. (APA); and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

4. The court may grant relief under the habeas corpus statutes, the Declaratory Judgment Act, and the All-Writs Act, 28 U.S.C. § 1651.

**VENUE**

5. Venue is proper because Petitioner is detained at the Otay Mesa Detention Facility, in San Diego, California, which is within the jurisdiction of this District.

6. Venue is also proper in this judicial district pursuant to 28 USC §1391(e) because at least one federal respondent is in this District; and a substantial part of the events or omissions giving rise to the claims in this action took place in this District. No real property is involved.

**REQUIREMENTS OF 28 U.S.C. § 2243**

7. The Court must grant the habeas corpus petition or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id*.

8. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

**PARTIES**

9. Petitioner LEYDA MARQUINA SANCHEZ (“Petitioner”) is a 57-year-old citizen of Venezuela. He is detained by the Respondents at the Otay Mesa Detention Center.



1           16.     “Neither the Ninth Circuit nor the Supreme Court have provided guidance regarding  
2 the point at which an immigration detainee’s prolonged mandatory detention becomes  
3 unconstitutional.” *Amado v. United States Dep’t of Just.*, No. 25CV2687-LL(DDL), 2025 WL  
4 3079052, at \*5 (S.D. Cal. Nov. 4, 2025). However, “[n]early all district courts that have considered  
5 [the constitutionality of prolonged mandatory detention] agree that prolonged mandatory detention  
6 pending removal proceedings, without a bond hearing, will—at some point—violate the right to due  
7 process.” *Singh v. Barr*, 400 F. Supp. 3d 1005 (S.D. Cal. 2019) (internal quotation marks and  
8 citations omitted) (cleaned up) (collecting cases).

9           17.     Many district courts addressing habeas petitions asserting claims based upon  
10 mandatory detention have determined that prolonged detention without a bond hearing violates due  
11 process rights. *See Gao v. LaRose*, 805 F. Supp. 3d 1106, 1110 (S.D. Cal. 2025) (listing cases). In  
12 this regard, judges in the Southern District of California have rejected Respondents’ due process  
13 arguments and “join[ed] the majority of courts across the country in concluding that an  
14 unreasonably prolonged detention under 8 U.S.C. § 1225(b) without an individualized bond hearing  
15 violates due process.” *Khadka v. Otay Mesa Det. Ctr.*, No. 3:26-CV-00475-RBM-MMP, 2026 WL  
16 800177, at \*3 (S.D. Cal. Mar. 23, 2026); *Malyshko v. Warden Otay Mesa Det. Ctr.*, Case No.: 3:26-  
17 cv-00069-RBM-SBC, 2026 WL 252367, at \*4 (S.D. Cal. Jan. 30, 2026) (quoting *Kydyrali v. Wolf*,  
18 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020)); *see Xie v. LaRose*, Case No.: 3:26-cv-00529-  
19 RBMDDL, 2026 WL 549909, at \*2 (S.D. Cal. Feb. 27, 2026) (quoting the same); *see Zhakuov v.*  
20 *Noem*, Case No. 3:26-cv-00288-RBM-DDL, 2026 WL 517981, at \*2 (S.D. Cal. Feb. 25, 2026)  
21 (same); *Hussain v. LaRose*, Case No.: 3:26-cv-00194-RBM-MSB, 2026 WL 206715, at \*2 (S.D.  
22 Cal. Jan. 27, 2026) (same). “This Court likewise agree[d] with those district courts that interpret  
23 *Thuraissigiam* as circumscribing an arriving noncitizen’s due process rights to admission, rather  
24 than limiting that person’s ability to challenge detention.” *Malyshko*, 2026 WL 252367, at \*4  
25 (quoting *Gao v. LaRose*, 805 F. Supp. 3d 1106, 1110 (S.D. Cal. 2025)). *Asayehegn v. LaRose*, Case  
26 No.: 26-cv-00663-RBM-BJW, 2026 WL 937126 at \*2 (S.D. Cal. April 27, 2026).

27           18.     To determine whether § 1225(b) detention has become unreasonable, the Court  
28 considers:(1) total length of detention to date; (2) likely duration of future detention; (3) conditions

1 of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the  
2 removal proceedings caused by the government; and (6) the likelihood that the removal proceedings  
3 will result in a final order of removal. *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020)  
4 (citing *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019).

5 19. Petitioner is detained at the Otay Mesa Detention Center, which several courts have  
6 found is “indistinguishable from penal confinement.” *Kydyrali*, 499 F. Supp. 3d at 773 (citation  
7 omitted); *Abdul Kadir v. Larose*, Case No. 25-cv-1045-LL-MMP, 2025 WL 2932654 at \*5 (S.D.  
8 Cal. Oct. 15, 2025).

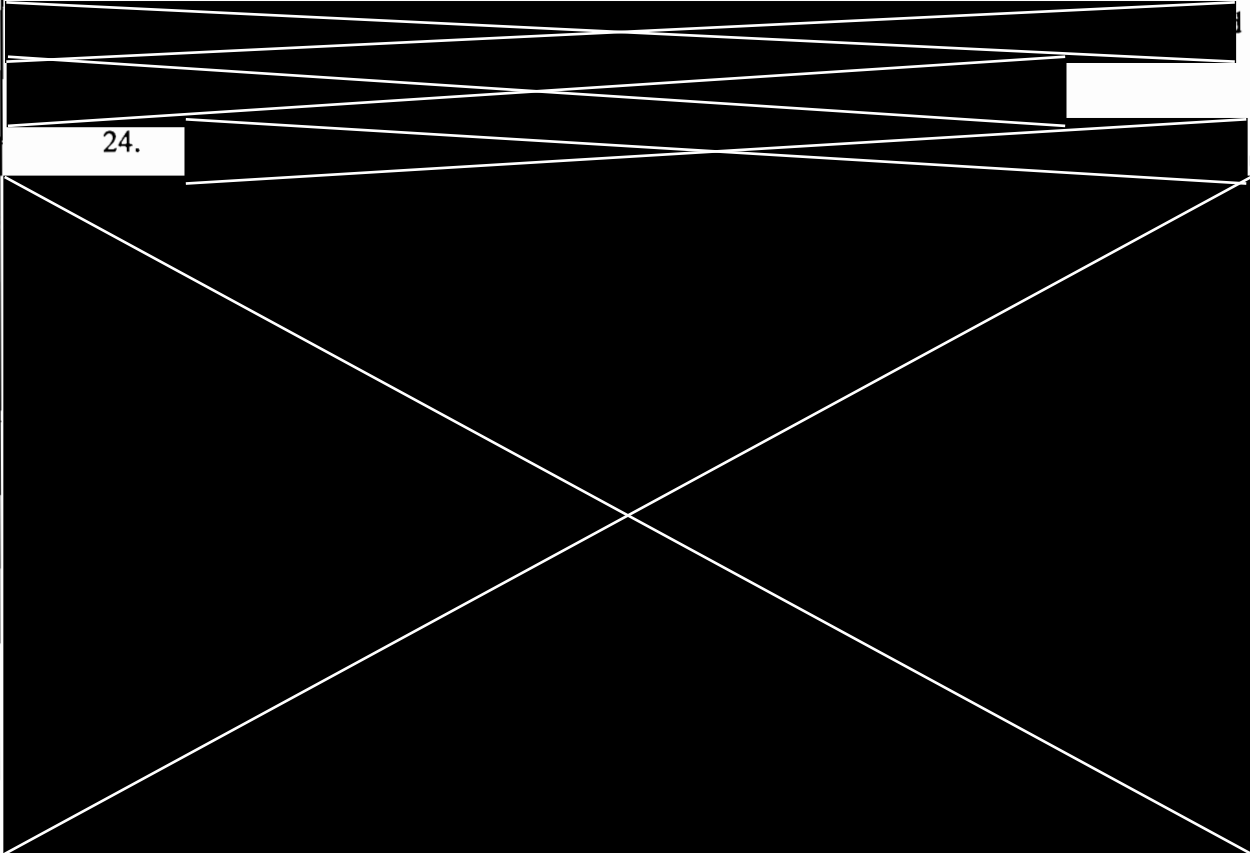
9 **FACTUAL ALLEGATIONS**

10 20. Petitioner LEYDA MARQUINA SANCHEZ is a 57-year-old citizen of Venezuela.  
11 She is divorced and had four children. Her oldest child was murdered. Petitioner has been regularly  
12 employed and has no criminal record.

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15        25.    Petitioner was not able to make an appointment as requested via the CBP One  
16 application, so in desperation she unlawfully crossed into the United States near Tijuana, Mexico.  
17 Petitioner was detained by border agents on October 28, 2025 and sent to the Otay Mesa Detention  
18 Center. She passed a credible fear interview and on November 16, 2025, the DHS filed a Notice of  
19 Referral to Immigration Judge to start removal proceeding at the Otay Mesa Immigration Court.  
20 Petitioner has filed an asylum application. Her removal case is now set for an individual calendar  
21 hearing on the asylum application on May 20, 2026.

22        26.    If for some reason the court denies petitioner’s asylum application at the individual  
23 calendar hearing, she is entitled to appellate review of this decision. She can first appeal to the  
24 Board of Immigration Appeals (“BIA”). If the BIA denies the appeal, she can file a petition for  
25 review with the Ninth Circuit Court of Appeals. The DHS has the same appellate rights. The  
26 appellate review process will take months and possibly years.

27        27.    Respondents have detained petitioner since October 28, 2025—a total of 192 days so  
28 far. Spending so many months in the immigration jail has been devastating to petitioner’s physical

1 and emotional health. Petitioner expected to receive greetings and protection in the United States  
2 from the persecution of the Marxist dictatorship in Venezuela. Her prolonged detention has  
3 rendered petitioner isolated, afraid, anxious, desperate, and depressed.

4 28. On November 18, 2025, petitioner filed a bond redetermination request at the Otay  
5 Mesa Immigration Court. On November 21, 2025, the immigration judge denied the bond request,  
6 concluding that there was no jurisdiction. Petitioner has not filed an appeal of this bond decision to  
7 the Board of Immigration Appeals because this would be futile. The immigration statute and  
8 regulations say the immigration judge has no bond jurisdiction over an arriving alien like petitioner.

9 **CAUSES OF ACTION**

10 (Violation of the Due Process Clause)

11 29. Petitioner incorporates by reference the allegations set forth in paragraphs 1 to 28.

12 30. On October 28, 2025, DHS agents detained petitioner and sent her to the Otay Mesa  
13 Detention Center for a removal proceeding.

14 31. On November 17, 2025, the DHS started an asylum only proceeding against  
15 petitioner at the Otay Mesa Immigration Court. She has applied for asylum. The asylum application  
16 is pending in the removal proceeding.

17 32. Petitioner has been detained for 192 days. The prolonged detention has caused her  
18 physical and emotional distress..

19 33. The prolonged detention of petitioner without an individualized bond hearing in the  
20 reasonably foreseeable future violates the Due Process Clause of the United States Constitution.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

23 (1) Assume jurisdiction over this matter;

24 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition  
25 should not be granted within three days;

26 (3) Declare that Petitioner's prolonged detention violates the Due Process Clause of the  
27 Fifth Amendment;

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1 (4) Issue a Writ of Habeas Corpus ordering Respondents to provide petitioner a prompt  
2 and individualized bond hearing, where Respondents must justify Petitioner's continued detention  
3 by a showing of clear and convincing evidence that Petitioner would likely flee or pose a danger to  
4 the community if released;

5 (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (28  
6 U.S.C. § 2412), and any other applicable statute or regulation; and

7 (6) Grant any further relief this Court deems just and proper.

8 DATED: 8 May 2026

9 Respectfully submitted,

10 */s/ William Baker*

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**VERIFICATION**


**DECLARATION UNDER PENALTY OF PERJURY**

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

**VERIFICACIÓN**

**DECLARACIÓN BAJO PENA DE PERJURIO**

Declaro bajo pena de perjurio según las leyes de los Estados Unidos que soy el peticionario; He leído la petición o me la han leído en un idioma que entiendo, y la información de la petición es verdadera y correcta. Entiendo que una declaración falsa de un hecho material puede servir como base para el enjuiciamiento por perjurio.

  
Leyda Marquina Sanchez  
Petitioner/Peticionario