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5 Attorney for Petitioner

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7 UNITED STATES DISTRICT COURT  
8 Southern District of California

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10 LEYDA MARQUINA SANCHEZ,  
11 Petitioner,  
12 v.

13 CHRISTOPHER J. LaROSE ; *et al.*,  
14 Respondents.

) Case Number: 26-cv-02928-LEK-DDL  
)  
) **PETITIONER'S TRAVERSE AND**  
) **MEMORANDUM IN SUPPORT OF**  
) **PETITION**

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1 Petitioner submits this Traverse and Memorandum to comply with the Court’s order and the  
2 habeas corpus procedure and to expedite the process.

3 **Jurisdiction**

4 Respondents first argue that 8 U.S.C. § 1252(g) prohibits this court from even considering  
5 whether petitioner’s detention violates Due Process because it lacks jurisdiction. Respondents are  
6 wrong. The argument the court lacks jurisdiction to consider a prolonged detention habeas corpus  
7 petition is belied by both the text of the applicable statutes and established case law. It has also  
8 already been repeatedly rejected by this court.

9 8 U.S.C. § 1252(g) divests the court of jurisdiction to review actions that the Attorney  
10 General may take to *commence* proceedings, *adjudicate* cases, or *execute* removal orders. (emphasis  
11 added). Here, petitioner is not asking the court to review any actions related to the *commencement*  
12 of proceedings, the *adjudication* of cases, or the *execution* of a removal order. Petitioner challenges  
13 the purely legal question of whether her prolonged detention violates the Constitution. So, the  
14 statute does not apply to this habeas corpus petition by its own words.

15 Moreover, the case law reached the same conclusion. Section 1252(g) should be ready  
16 narrowly to apply “only to three discrete actions that the Attorney General may take: her ‘decision  
17 or action’ to ‘*commence* proceedings, *adjudicate* cases, or *execute* removal orders.’ ” *Reno v. Am.-*  
18 *Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); *see also Jennings v. Rodriguez*, 583  
19 U.S. 281, 294 (2018) (holding that constitutional challenge to prolonged detention without bond-  
20 hearing requirement is not barred by 8 U.S.C. § 1226(e)). “It is implausible that the mention of three  
21 discrete events along the road to deportation was a shorthand way of referring to all claims arising  
22 from deportation proceedings.” *Reno*, 525 U.S. at 482. Thus, Section 1252(g) does not “sweep in  
23 any claim that can technically be said to ‘arise from’ the three listed actions of the Attorney  
24 General.” *Jennings*, 583 U.S. at 294. *See Vasquez Perdomo v. Noem*, 790 F. Supp. 3d 850, 884-85  
25 (C.D. Cal. 2025). Therefore, § 1252(g) does not strip the Court of jurisdiction. *See, e.g., Navarro*  
26 *Sanchez v. Larose et al.*, 25-cv-2396 JES (MMP), 2025 WL 2770629, at \*2 (S.D. Cal. Sept. 26,  
27 2025) (finding the Court had jurisdiction in a similar matter); *Noori v. Larose et al.*, 25-cv-1824  
28 GPC (MSB), 2025 WL 2800149, at \*7-8 (S.D. Cal. Oct. 1, 2025) (same).

1 **Prolonged Detention**

2 “Neither the Ninth Circuit nor the Supreme Court have provided guidance regarding the  
3 point at which an immigration detainee’s prolonged mandatory detention becomes  
4 unconstitutional.” *Amado v. United States Dep’t of Just.*, No. 25CV2687-LL(DDL), 2025 WL  
5 3079052, at \*5 (S.D. Cal. Nov. 4, 2025). However, “[n]early all district courts that have considered  
6 [the constitutionality of prolonged mandatory detention] agree that prolonged mandatory detention  
7 pending removal proceedings, without a bond hearing, will—at some point—violate the right to due  
8 process.” *Singh v. Barr*, 400 F. Supp. 3d 1005 (S.D. Cal. 2019) (internal quotation marks and  
9 citations omitted) (cleaned up) (collecting cases). In determining whether detention has become  
10 unreasonable, courts evaluate factors including “the total length of detention to date, the likely  
11 duration of future detention, and the delays in the removal proceedings caused by the petitioner and  
12 the government.” *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). Some courts also  
13 consider the conditions of detention and the likelihood that the removal proceedings will result in a  
14 final order of removal. *See, e.g., Sadeqi v. LaRose*, No. 25-CV-2587-RSH-BJW, 2025 WL  
15 3154520, at \*3 (S.D. Cal. Nov. 12, 2025).

16 Many district courts addressing habeas petitions asserting claims based upon mandatory  
17 detention have determined that prolonged detention without a bond hearing violates due process  
18 rights. *See Gao v. LaRose*, 805 F. Supp. 3d 1106, 1110 (S.D. Cal. 2025) (listing cases). To  
19 determine whether § 1225(b) detention has become unreasonable, the Court considers: (1) total  
20 length of detention to date; (2) likely duration of future detention; (3) conditions of detention; (4)  
21 delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings  
22 caused by the government; and (6) the likelihood that the removal proceedings will result in a final  
23 order of removal. *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020) (citing *Banda v.*  
24 *McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019). Let us apply these factors to this case.


25 First, the respondents have detained petitioner since October 28, 2025—a total of 204 days  
26 so far. Petitioner was never detained in her life until she came to the USA. She was a lawyer in  
27 Venezuela and has no criminal record. So her detention has been an especially excruciating ordeal  
28 for petitioner. This factor weighs in favor of petitioner.

1 Second, the likely duration of future detention is lengthy. Today the immigration judge  
2 granted petitioner asylum. See attached order. The DHS attorney reserved appeal. It is likely the  
3 DHS will appeal the asylum decision to the Board of Immigration Appeals (BIA). A BIA appeal  
4 generally takes many months, even for a detained person. If the BIA denies the DHS appeal, it  
5 could file a petition for review with the Ninth Circuit Court of Appeals. A Ninth Circuit appeal also  
6 takes many months, even for a detained person. If the BIA sustains the DHS appeal, then petitioner  
7 can file a petition for review with the Ninth Circuit Court of Appeals. She would have to because  
8 the alternative is a certain death waiting for her in Venezuela. Either way the point is that this case  
9 will not be resolved for months or years. This factor weighs in favor of petitioner.

10 Third, the conditions of petitioner’s detention verge on the abominable. Petitioner is  
11 detained at the Otay Mesa Detention Center (OMDC), which several courts have found is  
12 “indistinguishable from penal confinement.” *Kydyrali*, 499 F. Supp. 3d at 773 (citation omitted).  
13 Worse, the OMDC is owned and operated by CoreCivic, a private prison company. The thirst to  
14 maximize profits is likely reflected in the level of care doled out to detainees. This factor weighs in  
15 favor of petitioner.

16 Fourth, there were no delays in the proceeding caused by petitioner. She was detained and  
17 her case was set for a master calendar a few weeks later. She filed her asylum application, and her  
18 case was scheduled for trial. The trial was continued a couple of weeks because there was no time.  
19 Today the court conducted the trial and approved the asylum application. This factor weighs in  
20 favor of petitioner.

21 Fifth, there were delays in the proceeding caused by government. Respondents detained  
22 petitioner on October 28, 2025 but did not schedule her first court hearing for weeks. Why did  
23 petitioner have to wait so long to even see a judge in her removal case? On January 12, 2026 the  
24 court scheduled the trial for May 7, 2026—a date nearly four months away. Why did petitioner have  
25 to wait so long for a decision on her applications? This factor weighs in favor of petitioner.

26 Sixth, there is little likelihood that the removal proceeding will result in a final order of  
27 removal against petitioner. The judge granted her asylum application based upon the nightmarish  
28 events she experienced in Venezuela. Among other things, 

1 [REDACTED]  
2 [REDACTED]

3 [REDACTED] This factor weighs in favor of petitioner.

4 **Remedy**

5 In this case, the appropriate remedy is an order that respondents immediately schedule a  
6 bond hearing before a neutral immigration judge. There is a growing trend or realization that the  
7 bond proceedings at the Otay Mesa Immigration Court are not fair. The EOIR system has been  
8 debased into a deportation machine. The judges apparently know that they risk being fired if they do  
9 not perform their expected task of denying bonds and deporting people. Respondents' goal is to  
10 oppress noncitizen detainees into hopelessness, despair, and exhaustion so that they will abandon  
11 their legal rights. This is not justice.

12 So, petitioner seeks the following remedy:

- 13 1. The Court orders Petitioner shall receive a bond hearing before an immigration judge  
14 pursuant to 8 U.S.C. § 1226(a) to determine whether detention is warranted. Respondents shall bear  
15 the burden of establishing, by clear and convincing evidence that Petitioner poses a danger to the  
16 community or a risk of flight.

17 DATED: 20 May 2026


Respectfully submitted,

18  
19 /s/ William Baker  
20 William Baker (157 906)  
21 MORENO & ASSOCIATES  
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# EXHIBIT A

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OTAY MESA IMMIGRATION COURT

LEAD FILE:   
IN REMOVAL PROCEEDINGS  
DATE: Jan 12, 2026  
EAD Clock: 3 days elapsed

TO: Moreno & Associates  
BAKER, WILLIAM JASON  
2082 Otay Lakes Road Suite 102  
Chula Vista, CA 91913

RE:  MARQUINA SANCHEZ, LEYDA

**Notice of In-Person Hearing**

Your case has been scheduled for a INDIVIDUAL hearing before the immigration court on:

Date: May 7, 2026  
Time: 10:00 A.M. PT  
Court Address: 7488 CALZADA DE LA FUENTE, SAN DIEGO, CA 92154

**Representation:** You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> is a list of free legal service providers who may be able to assist you.

**Failure to Appear:** If you fail to appear at your hearing and the Department of Homeland Security establishes by clear, unequivocal, and convincing evidence that written notice of your hearing was provided and that you are removable, you will be ordered removed from the United States. Exceptions to these rules are only for exceptional circumstances.

**Change of Address:** The court will send all correspondence, including hearing notices, to you based on the most recent contact information you have provided, and your immigration proceedings can go forward in your absence if you do not appear before the court. If your contact information is missing or is incorrect on the Notice to Appear, you must provide the immigration court with your updated contact information within five days of receipt of that notice so you do not miss important information. Each time your address, telephone number, or email address changes, you must inform the immigration court within five days. To update your contact information with the immigration court, you must complete a Form EOIR-33 either online at <https://respondentaccess.eoir.justice.gov/en/> or by completing the enclosed paper form and mailing it to the immigration court listed above.

**Internet-Based Hearings:** If you are scheduled to have an internet-based hearing, you will appear by video or telephone. If you prefer to appear in person at the immigration court named above, you must file a motion for an in-person hearing with the immigration court at least fifteen days before the hearing date provided above. Additional information about internet-based hearings for each immigration court is available on EOIR's website at <https://www.justice.gov/eoir/eoir-immigration-court-listing>.

**In-Person Hearings:** If you are scheduled to have an in-person hearing, you will appear in person at the immigration court named above. If you prefer to appear remotely, you must file a motion for an internet-based hearing with the immigration court at least fifteen days before the hearing date provided above.

For information about your case, please call 1-800-898-7180 (toll-free) or 304-625-2050.

The Certificate of Service on this document allows the immigration court to record delivery of this notice to you and to the Department of Homeland Security.

CERTIFICATE OF SERVICE

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TO: [ ] Noncitizen | [ ] Noncitizen c/o Custodial Officer |  
[E] Noncitizen ATT/REP | [E] DHS  
DATE: 1/12/26 BY: COURT STAFF RG  
Attachments: [ ] EOIR-33 [ ] Appeal Packet [ ] Legal Services List [ ] Other NH

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Use a câmara do smartphone para digitalizar o código nesta página e ler o manual de instruções online.

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ਨੋਟਿਸ ਨੂੰ ਔਨਲਾਈਨ ਪੜ੍ਹਨ ਲਈ ਇਸ ਪੇਜ 'ਤੇ ਕੋਡ ਨੂੰ ਸਕੈਨ ਕਰਨ ਲਈ ਸਮਾਰਟਫੋਨ ਦੇ ਕੈਮਰੇ ਦੀ ਵਰਤੋਂ ਕਰੋ।

অনলাইনে নোটিশ পড়ার জন্য এই পাতের কোডটি স্ক্যান করতে স্মার্টফোনের ক্যামেরা ব্যবহার করুন



सूचना अनलाइनमा पढ्न यस पृष्ठमा कोड स्क्यान गर्न स्मार्टफोनको क्यामेरा प्रयोग गर्नुहोस्।

Sèvi ak kamera yon telefòn entèlijan pou eskane kòd ki nan paj sa a pou li avi a sou entènèt.

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# EXHIBIT B



UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OTAY MESA IMMIGRATION COURT

Respondent Name:

MARQUINA SANCHEZ, LEYDA

To:

BAKER, WILLIAM JASON  
2082 Otay Lakes Road Suite 102  
Chula Vista, CA 91913

A-Number:



Riders:

In Removal Proceedings  
Initiated by the Department of Homeland Security

Date:

05/20/2026

ORDER OF THE IMMIGRATION JUDGE

- This is a summary of the oral decision entered on 05/20/2026. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent  removable  inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(7)(A)(i)(I)

The immigration court found Respondent  not removable  not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- Asylum was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Withholding of Removal under INA § 241(b)(3) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Withholding of Removal under the Convention Against Torture was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Deferral of Removal under the Convention Against Torture was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice
- Special Rule Cancellation of Removal under INA § 240A(b)(2) was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

C. Waiver

- A waiver under INA § was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

D. Adjustment of Status

- Adjustment of Status under INA § was  granted  denied  withdrawn with prejudice  withdrawn without prejudice

E. Other

Asylum granted. Withholding, statutory and CAT, as well as CAT deferral, granted in the alternative.

**III. Voluntary Departure**

- Respondent's application for  pre-conclusion voluntary departure under INA § 240B(a)  post-conclusion voluntary departure under INA § 240B(b) was  denied.
- Respondent's application for  pre-conclusion voluntary departure under INA § 240B(a)  post-conclusion voluntary departure under INA § 240B(b) was  granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- The respondent is subject to the following conditions to ensure his or her timely departure from the United States:

- Further information regarding voluntary departure has been added to the record.
- Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- the presumptive civil monetary penalty amount of \$3,000.00 USD
- \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of 10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of

nonimmigrant status. *Id.* If Respondent files<sup>13</sup> a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

#### IV. Removal

- Respondent was ordered removed to
- In the alternative, Respondent was ordered removed to
- Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. See INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

#### V. Other

- Proceedings were  dismissed  terminated with prejudice
- terminated without prejudice  administratively closed.

Respondent's status was rescinded under INA § 246.

Other:

Immigration Judge: Ortiz, Ferdinand 05/20/2026

Appeal:	Department of Homeland Security:	<input type="checkbox"/> waived	<input checked="" type="checkbox"/> reserved
	Respondent:	<input checked="" type="checkbox"/> waived	<input type="checkbox"/> reserved

Appeal Due: 06/19/2026

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Respondent Name : MARQUINA SANCHEZ, LEYDA | A-Number :

Riders:

Date: 05/20/2026 By: Longmire, Emely, Court Staff