



ZOHRABYAN
• LAW, APC •

TO THE HONORABLE COURT:

Petitioner, Hatim Abdel Mongy Abdala Baker, by and through undersigned counsel, respectfully submits this Notice of Petitioner's Hospitalization and Request for Immediate Ruling.

I. PROCEDURAL BACKGROUND

- On May 11, 2026, Petitioner filed a Petition for Writ of Habeas Corpus (ECF No. 1).
- On May 21, 2026, this Court ordered Petitioner's counsel to file a response to the Order to Show Cause (ECF No. 5).
- On May 27, 2026, Petitioner, through undersigned counsel, timely filed a response (ECF No. 6).

II. PETITIONER'S DETERIORATING MEDICAL CONDITION

Petitioner's continued detention violates the Fifth Amendment Due Process Clause because it has become unconstitutionally prolonged and punitive, particularly in light of his severe and well-documented medical conditions.

Petitioner suffers from multiple serious health issues, including but not limited to prostate cancer requiring surgical intervention, history of two open-heart surgeries, Type 2 diabetes, hypertension, benign prostatic hyperplasia (BPH) with worsening urinary symptoms.

Since being detained at Otay Mesa Detention Center ("OMDC"), Petitioner has lost at least 18 pounds, evidencing rapid physical deterioration. He has required ongoing administration of multiple medications. He has been subjected to delays in critical diagnostic testing and specialist care, including urological evaluation and necessary surgical treatment.

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1 The failure to provide timely and adequate medical care constitutes deliberate
2 indifference to serious medical needs, rendering his continued detention punitive and
3 unconstitutional.

4 **III. RECENT HOSPITALIZATION AND SURGERY**

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6 On June 8, 2026, Petitioner was transported from OMD C to UC San Diego
7 Health, where he underwent prostate surgery. This recent hospitalization underscores
8 the urgent and life-threatening nature of Petitioner's medical condition and further
9 demonstrates that continued detention in a custodial setting place him at significant
10 risk of irreparable harm.

11 **IV. LEGAL BASIS FOR RELIEF**

12 **A. Fifth Amendment Due Process Clause**

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14 The Fifth Amendment prohibits the federal government from depriving any
15 person of liberty without due process of law. This protection applies fully to
16 noncitizens in immigration detention. Civil immigration detention must
17 remain nonpunitive and reasonably related to its regulatory purpose. Where detention
18 becomes excessive in duration, or where conditions of confinement are incompatible
19 with an individual's medical needs, it violates substantive due process.
20

21 Courts have repeatedly held that detention becomes unconstitutional when:

- 22 • It is prolonged without adequate procedural safeguards, including a meaningful
23 bond hearing;
- 24 • It becomes punitive in effect, rather than regulatory in purpose;
- 25 • The government demonstrates deliberate indifference to serious medical needs;
- 26 or
- 27
- 28

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- The conditions of confinement create an unreasonable risk of harm to the detainee's health.

Here, Petitioner's detention is unconstitutional because he has been detained for a prolonged period under INA § 1226(a) without a constitutionally adequate bond hearing. His serious medical conditions, including cancer, cardiac history, and diabetes have been inadequately treated. The Government has failed to provide timely specialist care and necessary surgical intervention. Furthermore, his hospitalization and emergency surgery demonstrate that continued detention poses a substantial risk of irreparable harm. Under these circumstances, Petitioner's detention is no longer regulatory, it is punitive and therefore violates the Fifth Amendment.

B. Immigration and Nationality Act (INA)

The Immigration and Nationality Act, including 8 U.S.C. § 1226(a), governs discretionary immigration detention and authorizes detention only for purposes of ensuring appearance at proceedings and protecting the community. However, the statute does not authorize indefinite or unreasonable detention, nor does it permit detention under conditions that fail to account for humanitarian considerations.

Courts interpreting the INA have emphasized that:

- Detention under § 1226(a) must be accompanied by procedural safeguards, including access to a bond hearing;
- The Government must justify continued detention based on individualized assessments; and
- Detention conditions must remain consistent with constitutional and statutory protections.

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1 In this case, Petitioner has not been afforded a meaningful bond determination
2 consistent with due process principles. His continued detention is disproportionate and
3 unjustified, particularly given his fragile health. The Government has failed to
4 consider less restrictive alternatives to detention despite compelling humanitarian
5 factors. Accordingly, Petitioner's detention exceeds the lawful scope of the INA and
6 must be remedied by this Court.

7 8 **C. Fraihat v. ICE Injunction**

9 In Fraihat v. ICE, No. 5:19-cv-01546-JGB-SHK (C.D. Cal. Apr. 20, 2020), the
10 United States District Court for the Central District of California issued a nationwide
11 injunction requiring Immigration and Customs Enforcement ("ICE") to implement
12 safeguards for detainees with heightened medical vulnerabilities.

13
14 The injunction mandates, among other things:

- 15
16 • Timely identification and tracking of medically vulnerable detainees;
17 • Individualized custody determinations that meaningfully consider health risks;
18 • Appropriate medical care and monitoring; and
19 • Consideration of release or alternative custody arrangements for high-risk
20 individuals.

21
22 Petitioner falls squarely within the class of medically vulnerable individuals
23 protected by Fraihat, given his cancer diagnosis and recent surgery; serious cardiac
24 history; and chronic conditions requiring continuous medical management. Despite
25 these protections, Respondents have failed to provide adequate and timely medical
26 care; conduct a meaningful custody reassessment in light of his deteriorating
27 condition; or mitigate the substantial risks posed by continued detention.

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1 This noncompliance constitutes a violation of the Fraihat injunction, further
2 rendering Petitioner's detention unlawful.

3 **D. Section 504 of the Rehabilitation Act**
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5 Section 504 of the Rehabilitation Act (29 U.S.C. § 794) prohibits discrimination
6 on the basis of disability in programs or activities conducted by federal agencies,
7 including ICE detention facilities.
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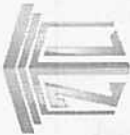
9 Under Section 504, the Government must:

- 10
- 11 • Provide reasonable accommodations to individuals with disabilities;
 - 12 • Ensure equal access to benefits and services, including adequate medical care;
13 and
 - 14 • Avoid actions that effectively exclude or endanger individuals because of their
15 medical conditions.

16 A qualifying disability includes serious medical conditions that substantially limit
17 major life activities, such as cancer, cardiovascular disease, and diabetes. Petitioner's
18 conditions clearly qualify as disabilities under the statute. Respondents have violated
19 Section 504 by failing to provide timely and necessary medical treatment, including
20 delays in diagnosis and surgery; subjecting Petitioner to conditions that exacerbate his
21 disabilities; and failing to consider reasonable accommodations, including release
22 from detention, despite clear medical necessity.
23

24 As such, these failures constitute unlawful discrimination and denial of
25 meaningful access to necessary medical care. Given the severity of Petitioner's
26 medical condition and the Government's failure to provide adequate care or a bond
27 hearing, continued detention is unlawful.
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V. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release;
2. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing within seven (7) days;
3. Require the Government to bear the burden of proof by clear and convincing evidence that continued detention is justified; and
4. Declare Petitioner's detention unconstitutional.

Given Petitioner's recent surgery and ongoing medical vulnerability, immediate judicial intervention is necessary to prevent irreparable harm.

DATED: June 9, 2026

Respectfully submitted



Naira Zohrabyan

Attorney for Petitioner

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this **NOTICE OF PETITIONER'S HOSPITALIZATION AND REQUEST FOR IMMEDIATE RULING**, using the CM/ECF system.

DATED: June 9, 2026

Respectfully submitted



Naira Zohrabyan
Attorney for Petitioner
Zohrabyan Law, APC



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