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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT

TRAN, Thi Thu Hoai Petitioner, v. MARKWAYNE MULLIN, Secretary of the Department of Homeland Security, PAMELA JO BONDI, Attorney General, TODD M. LYONS, Acting Director, Immigration and Customs Enforcement, JESUS ROCHA, Acting Field Office Director, San Diego Field Office, CHRISTOPHER LAROSE, Warden at Otay Mesa Detention Center, Respondents.	Case No. '26CV3135 RSH GC **PETITION FOR WRIT OF HABEAS CORPUS**

1 **INTRODUCTION**

2 Thi Thu Hoai Tran has been detained at Otay Mesa Detention Center since August 26, 2025,
3 nearly nine months because of her asylum claim. This Court should "join the majority of courts
4 across the country in concluding that [her] unreasonably prolonged detention under 8 U.S.C. §
5 1225(b) without an individualized bond hearing violates due process." *Kydyrali v. Wolf*, 499 F.
6 Supp. 3d 768, 772 (S.D. Cal. 2020) (Battaglia, J.).
7
8 Ms. Tran's case presents circumstances more compelling than the typical prolonged detention
9 habeas petition. On March 30, 2026, after a full merits hearing, an immigration judge determined
10 that Ms. Tran is entitled to protection under the Convention Against Torture ("CAT"), finding it
11 more likely than not that she would be subjected to torture if returned to Vietnam. Ms. Tran did
12 not proceed with appeal. *See Exhibit A, **IJ Decision.*** The government, facing an adverse ruling
13 on the merits, waited the entire thirty-day appeal window and, on the very last day — April 29,
14 2026 — filed an administrative appeal to the Board of Immigration Appeals ("BIA"), thereby
15 triggering an automatic stay that perpetuates Ms. Tran's incarceration notwithstanding an
16 adjudication in her favor. *See* 8 C.F.R. § 1003.6. Compounding this procedural gamesmanship,
17 undersigned counsel did not receive notice of DHS's appeal until May 4, 2026, five days after the
18 filing. *See Exhibit B, **DHS Appeal.*** The government's justification for continuing to imprison
19 Ms. Tran is at its lowest ebb: an immigration judge has already found, on the merits, that she is
20 entitled to protection from torture. The legal and equitable basis for her continued detention does
21 not outweigh Ms. Tran's due process violations.
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1 Additionally, because of newly emerging evidence that the neutrality of Otay Mesa's
2 immigration judges ("IJ") has been compromised, and because DHS has implemented strategies
3 including the strategic filing of last-minute administrative appeals to exploit automatic stays —
4 to detain bond-worthy habeas petitioners, a bond hearing before a randomly selected IJ will no
5 longer reliably satisfy due process. This Court should order Ms. Tran's immediate release, or
6 consider the alternative forms of relief set forth at the end of this petition.

7 **Jurisdiction and Venue**

8 This Court has jurisdiction under 28 U.S.C. § 2241(c)(3), which authorizes federal courts to
9 grant a writ of habeas corpus to any person held "in custody in violation of the Constitution or
10 laws or treaties of the United States." The Supreme Court has long recognized that § 2241
11 provides jurisdiction for constitutional challenges to the duration of immigration detention. *See*
12 *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001). The Ninth Circuit has likewise confirmed §
13 2241 jurisdiction over constitutional challenges to prolonged immigration confinement. *See*
14 *Diouf v. Napolitano*, 634 F.3d 1081, 1086 (9th Cir. 2011). This petition presents exactly such a
15 challenge.

16

17 Venue is proper in the Southern District of California because Petitioner is currently detained at
18 Otay Mesa Detention Center, 7488 Calzada De La Fuente, San Diego, California 92154, a
19 facility within this District. The proper respondent in a habeas action is the immediate custodian
20 — the person with day-to-day control over the petitioner's confinement. *Rumsfeld v. Padilla*, 542
21 U.S. 426, 434–35 (2004). Respondent, the Officer in Charge of Otay Mesa Detention Center, is
22 that person and is within this Court's territorial jurisdiction.

23 **Parties**

24

1 Petitioner Thi Thu Hoai Tran is a citizen and national of Vietnam currently detained at Otay
2 Mesa Detention Center, 7488 Calzada De La Fuente, San Diego, California 92154. She is
3 detained pursuant to 8 U.S.C. § 1225(b) as an applicant for admission. She brings this petition
4 through counsel.
5
6 Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland
7 Security and is responsible for the administration and enforcement of the immigration laws of the
8 United States, including the policies and practices governing the detention of noncitizens at Otay
9 Mesa Detention Center. He is sued in his official capacity only.
10
11 Respondent PAMELA JO BONDI is the Attorney General of the United States and is
12 responsible for the Executive Office for Immigration Review, including the immigration courts
13 and the Board of Immigration Appeals. She is sued in her official capacity only.
14
15 Respondent TODD M. LYONS is the Acting Director of U.S. Immigration and Customs
16 Enforcement and is responsible for the detention and removal operations of ICE nationwide,
17 including at Otay Mesa Detention Center. He is sued in his official capacity only.
18
19 Respondent JESUS ROCHA is the Acting Field Office Director of the San Diego Field Office of
20 ICE Enforcement and Removal Operations and is responsible for ICE detention operations
21 within San Diego and Imperial Counties, including at Otay Mesa Detention Center. He is sued in
22 his official capacity only.
23
24

Respondent CHRISTOPHER LAROSE is the Warden of Otay Mesa Detention Center and is the immediate custodian with day-to-day responsibility for Petitioner's physical confinement. As Petitioner's immediate custodian, he is the proper respondent for purposes of this habeas petition. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004). He is sued in his official capacity only.

Statement of Facts

Ms. Tran is a citizen of Vietnam. Prior to her arrival in the United States, Ms. Tran was targeted by Vietnamese government authorities on account of her religion and political opinion. Vietnamese police detained and beat her for eight consecutive days. The abuse was severe enough to require hospitalization. *Id.* Ms. Tran has medical records from Vietnam documenting her injuries and confirming her hospitalization.

Ms. Tran entered the United States on August 26, 2025, seeking asylum and other protection from the harm she had suffered and feared. She was detained as an arriving alien under 8 U.S.C. § 1225(b) and has been held continuously at Otay Mesa Detention Center ("OMDC") ever since. She is statutorily ineligible for a bond hearing as a matter of law. She has no criminal convictions and no criminal history of any kind.

Ms. Tran's immigration proceedings were delayed by factors outside her control. The primary sources of delay included the Otay Mesa immigration court's congested calendar, the departure and replacement of immigration judges at OMDC — itself a product of the current administration's purge of immigration judges—and the time necessary to gather and authenticate

1 evidence, including medical records, from Vietnam. Ms. Tran retained counsel promptly,
2 cooperated fully with her legal team, and appeared at every scheduled hearing.
3 On March 30, 2026, after a full merits hearing, an immigration judge issued a decision granting
4 Ms. Tran withholding of removal under the Convention Against Torture. The judge made an
5 affirmative factual finding that it is more likely than not that Ms. Tran would be subjected to
6 torture by Vietnamese authorities if removed to Vietnam. The judge denied Ms. Tran's
7 applications for asylum and withholding of removal under the INA. Ms. Tran chose not to
8 appeal. She accepted the IJ's decision and hoped to be released.
9
10 DHS had thirty calendar days from the IJ's March 30, 2026 decision to file an administrative
11 appeal — a window extending through April 29, 2026. Rather than acting promptly, DHS waited
12 the full thirty days and filed its appeal on April 29, 2026—the last permissible day. DHS's filing
13 triggered the BIA's automatic stay under 8 C.F.R. § 1003.6, blocking Ms. Tran's release and
14 extending her detention indefinitely pending BIA review. Undersigned counsel did not receive
15 any notice of DHS's appeal until May 4, 2026 — five days after DHS had already filed. This
16 delay in service deprived counsel of five additional days within which to seek emergency relief.
17 The BIA appeal is now pending, and no resolution date has been set.
18
19 BIA appeals can take months to resolve. If the BIA affirms the IJ's CAT grant, DHS may seek
20 further review in the Ninth Circuit, extending the proceedings even further. "[T]his process may
21 take up to two years or longer." *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1119 (W.D. Wash.
22 2019). Meanwhile, Ms. Tran remains detained at Otay Mesa in conditions indistinguishable from
23 penal confinement. Exh. A at ¶ [X].
24

Ms. Tran presents no risk of flight and poses no danger to the community. She has a sponsor in the United States: Dunc Minh Vo, a lawful permanent resident who owns and operates a farm in North Carolina and is willing and able to receive and support Ms. Tran upon her release. Ms. Tran has no criminal history whatsoever. She has consistently complied with all aspects of the immigration process, retaining counsel, appearing at hearings, and cooperating fully with proceedings.

Legal Argument

I. This Court Has Jurisdiction Under 28 U.S.C. § 2241

Section 2241 confers jurisdiction on federal district courts to issue writs of habeas corpus to persons held in custody "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). The Supreme Court has expressly confirmed that § 2241 provides a vehicle for constitutional challenges to immigration detention. *Zadvydas*, 533 U.S. at 687–88. The Ninth Circuit has likewise recognized § 2241 jurisdiction over claims that prolonged immigration confinement violates due process. *Diouf*, 634 F.3d at 1086. Because this petition raises exactly that constitutional claim, this Court has jurisdiction to hear it.

II. The Fifth Amendment's Due Process Clause Prohibits Prolonged Immigration Detention Without a Bond Hearing

This habeas petition presents a question about whether and when the Fifth Amendment's Due Process Clause countermands the government's statutory authority to detain immigrants without bond hearings. Ms. Tran is detained under one such statute, 8 U.S.C. § 1225(b). "Section 1225 applies to 'applicants for admission' — noncitizens who 'arrive[] in the United States,' or are 'present' in the United States but have 'not been admitted.'" *Banda v. McAleenan*, 385 F. Supp. 3d

1 1099, 1111 (W.D. Wash. 2019). It "applies to, among others, noncitizens initially determined to
2 be inadmissible because of . . . lack of valid documentation." *Id.* That includes persons who, like
3 Ms. Tran, present themselves for inspection at the border and — rather than producing admission
4 documents — make asylum and other fear-based claims. *See id.* at 1109–11. Such immigrants
5 are detained under § 1225(b) not only during their initial proceedings, but also when they appeal
6 to the BIA. *See id.* at 1111 (reaching same conclusion for immigrant with pending BIA appeal).
7
8 This statutory scheme has left courts to grapple with the limits (if any) of that detention power:
9 Does this statute permit the government to detain immigrants indefinitely, without ever having to
10 prove at a bond hearing that they pose a risk of danger or flight? Three Supreme Court cases are
11 potentially relevant to answering that question.
12
13 First, in *Zadvydas v. Davis*, the Supreme Court indicated that indefinite immigration detention
14 raises serious due process concerns. 533 U.S. 678 (2001). *Zadvydas* involved a statute
15 authorizing the government to detain immigrants after they are ordered removed. *Id.* at 683. For
16 immigrants who cannot be removed, that statute had the potential to subject them to years,
17 decades, or a lifetime in custody. *See id.* at 690. The Supreme Court held that if the statute
18 "permit[ed] indefinite detention of an alien[,] [it] would raise a serious constitutional problem,"
19 because
20
21 *[t]he Fifth Amendment's Due Process Clause forbids the Government to*
22 *'depriv[e]' any 'person ... of ... liberty ... without due process of law.' Freedom*
23 *from imprisonment—from government custody, detention, or other forms of*
24

physical restraint—lies at the heart of the liberty that Clause protects. See Foucha v. Louisiana, 504 U.S. 71, 80 (1992). And this Court has said that government detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, see United States v. Salerno, 481 U.S. 739, 746 (1987), or, in certain special and 'narrow' nonpunitive 'circumstances,' Foucha, supra, at 80, where a special justification, such as harm-threatening mental illness, outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.' Kansas v. Hendricks, 521 U.S. 346, 356 (1997).Id.

Ultimately, however, the Court declined to decide whether a statute permitting indefinite detention would violate the Due Process Clause. Instead, the Court employed the constitutional avoidance canon to read implicit limits into the statute, requiring release after detention became sufficiently prolonged. *Id.* at 699.

Following *Zadvydas*, the Ninth Circuit applied similar reasoning to § 1225(b). *Rodriguez v. Robbins*, 804 F.3d 1060, 1087–89 (9th Cir. 2015). Employing the constitutional avoidance canon, the Ninth Circuit held that § 1225(b) implicitly entitled detained immigrants to bond hearings every six months. *Id.*

The Supreme Court overruled that precedent in *Jennings v. Rodriguez*, holding that the statute does not entitle detainees to bond hearings or otherwise impose "any limit on the length of detention." 583 U.S. 281, 297 (2018). But though *Jennings* held that § 1225(b) imposes no

1 *statutory* limit on the length of detention, it reserved the question of whether prolonged,
2 mandatory detention without bond hearings violates due process. *Id.* at 312.
3
4 Finally, the Supreme Court held in *Demore v. Kim* that at least some statutes mandating
5 detention during immigration proceedings do not automatically violate the Due Process Clause.
6 538 U.S. 510, 513 (2003). *Demore* addressed 8 U.S.C. § 1226(c), which mandates detention
7 without a bond hearing for persons with certain criminal convictions. *Id.* The Court upheld §
8 1226(c) in a 5-4 opinion based on (1) the government interests justifying the detention of
9 immigrants with certain, aggravated criminal convictions, and (2) the relative brevity of
10 detention in most cases, with the vast majority taking only about five months. *Id.* at 517–31.
11 Justice Kennedy supplied the deciding vote. His concurrence left open the possibility that
12 individual immigrants could be "entitled to an individualized determination as to his risk of flight
13 and dangerousness if the continued detention became unreasonable or unjustified." *Id.* at 532–33.
14
15 "In the wake of *Jennings*," *Zadvydas*, and *Demore*, "district courts have grappled with how to
16 address due process challenges to prolonged mandatory detention under § 1225(b)." *Banda*, 385
17 F. Supp. 3d at 1116. But after a full evaluation, "[n]early all district courts that have considered
18 the issue agree that prolonged mandatory detention pending removal proceedings, without a
19 bond hearing, will — at some point — violate the right to due process." *Id.*
20
21 These courts have relied on the due process concerns recognized in *Zadvydas*. *See, e.g.*,
22 *Kydyrali*, 499 F. Supp. 3d at 771; *Banda*, 385 F. Supp. 3d at 1113–17; *Abdul Kadir v. Larose*,
23 No. 25CV1045-LL-MMP, 2025 WL 2932654, at *3 (S.D. Cal. Oct. 15, 2025). As the Ninth
24

Circuit put it in *Jennings'* wake, those considerations raise "grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so." *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

Neither *Jennings* nor *Demore* undermines that conclusion. *Jennings* held only that the statute itself did not impose any limits on detention. It "did not foreclose as-applied constitutional challenges to detention under" mandatory-detention statutes. *Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 209 (3d Cir. 2020). And *Demore* held only that conviction-based mandatory detention during immigration proceedings does not necessarily or inherently violate the Due Process Clause, particularly when the detention has an expected duration of only about five months. *Id.* at 208–11. Ms. Tran has no criminal convictions whatsoever — the predicate upon which *Demore* rested. And as Justice Kennedy's concurrence made clear, *Demore* does not prevent immigrants from arguing that sufficiently prolonged detention violates due process in their individual cases. *See id.*

Thus, this Court should hold that sufficiently prolonged detention violates the Due Process Clause, as most courts have. *See, e.g.*, *Gao v. LaRose*, No. 25-CV-2084-RSH-SBC, 2025 WL 2770633, at *3 (S.D. Cal. Sept. 26, 2025); *Abdul Kadir v. Larose*, No. 25CV1045-LL-MMP, 2025 WL 2932654, at *4 (S.D. Cal. Oct. 15, 2025); *Cong v. Noem*, No. 25-CV-3730-GPC-DEB, 2026 WL 76566, at *3 (S.D. Cal. Jan. 9, 2026); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) (Battaglia, J.); *Abdul-Samed v. Warden of Golden State Annex Det. Facility*, No. 25-cv-98-SAB-HC, 2025 WL 2099343, at *6 (E.D. Cal. July 25, 2025); *Hernandez v. Wofford*, No.

1 25-cv-986-KES-CDB (HC), 2025 WL 2420390, at *3 (E.D. Cal. Aug. 21, 2025); *Padilla v. ICE*,
2 704 F. Supp. 3d 1163, 1171–72 (W.D. Wash. 2023).
3
4 **III. Courts Have Reached Different Conclusions About When Immigration Detention**
5 **Becomes Unreasonably Prolonged, but Ms. Tran Prevails Under Any Standard**
6 Though courts agree that due process mandates a bond hearing when detention grows
7 unreasonably prolonged, they disagree about how to assess whether a particular detainee's
8 detention has reached that point. *Sanchez-Rivera v. Matuszewski*, No. 22-CV-1357-MMA (JLB),
9 2023 WL 139801, at *5–6 (S.D. Cal. Jan. 9, 2023) (Anello, J.) (surveying the various
10 approaches). Some courts have "conclude[d] . . . that detention becomes prolonged after six
11 months and entitles [a petitioner] to a bond hearing." *Rodriguez v. Nielsen*, No. 18-CV-04187-
12 TSH, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7, 2019). Under that threshold, Ms. Tran qualifies
13 automatically, having been detained for well over nine months.
14
15 Other courts have adopted factor-based tests. *See Sanchez-Rivera*, 2023 WL 139801, at *5–6
16 (surveying different approaches). Courts generally agree that relevant factors include: "the total
17 length of detention to date," "the likely duration of future detention," and "the delays in the
18 removal proceedings caused by the petitioner and the government." *Id.* Some courts also
19 consider "the conditions of detention" and "the likelihood that the removal proceedings will
20 result in a different final order." *Id.* Other courts have rejected the fourth and fifth factors. *Lopez*
21 *v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022); *accord Sanchez-Rivera*, 2023 WL
22 139801, at *5–6. Ms. Tran prevails under any of these tests — and the fifth factor, which courts
23 sometimes decline to apply, is singularly decisive in her case.
24

1 First, the "most important factor," the length of detention, strongly favors Ms. Tran. *Banda*, 385
2 F. Supp. 3d at 1118. "[I]t is important to bear in mind the context: The detention that is being
3 examined here is the detention of a human being who has never been found to pose a danger to
4 the community or to be likely to flee if released." *Jamal A. v. Whitaker*, 358 F. Supp. 3d 853, 859
5 (D. Minn. 2019). Courts in this district have found that "detention over seven months without a
6 bond hearing weighs toward a finding that it is unreasonable." *Amado v. United States Dep't of*
7 *Just.*, No. 25CV2687-LL(DDL), 2025 WL 3079052, at *5 (S.D. Cal. Nov. 4, 2025). Courts
8 elsewhere have granted bond hearings for persons detained between nine and eleven months. *See*
9 *Ashemuke v. ICE Field Off. Dir.*, No. C23-1592-RSL-MLP, 2024 WL 1683797, at *4 (W.D.
10 Wash. Feb. 29, 2024) ("approximately eleven months"); *Brissett v. Decker*, 324 F. Supp. 3d 444,
11 452 (S.D.N.Y. 2018) ("over nine months"); *Perez v. Decker*, No. 18-CV-5279 (VEC), 2018 WL
12 3991497, at *5 (S.D.N.Y. Aug. 20, 2018) ("more than nine months"); *Masood v. Barr*, No. 19-
13 CV-07623-JD, 2020 WL 95633, at *2 (N.D. Cal. Jan. 8, 2020) ("nearly nine months"). Ms. Tran
14 has been detained for approximately nine months. This factor clearly and strongly favors her.
15
16 Second, Ms. Tran faces the prospect of significant additional detention. DHS's appeal to the BIA
17 remains pending, with no scheduled resolution. BIA appeals in asylum cases routinely take six
18 months or more. If the BIA affirms the IJ's CAT grant, DHS may petition the Ninth Circuit for
19 review, extending the process further still. "[T]his process may take up to two years or longer."
20 *Banda*, 385 F. Supp. 3d at 1119. Because "Petitioner's future detention can last several more
21 months or even years[,]" this factor favors Ms. Tran. *Abdul Kadir*, 2025 WL 2932654, at *5.
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Third, the delays in these proceedings are attributable primarily to the court and to the government — not to Ms. Tran. The primary sources of delay were the Otay Mesa immigration court's congested calendar; the departure and replacement of immigration judges at OMDC, which was itself a product of the current administration's purge of immigration judges discussed below; and the time necessary to gather and authenticate documentation from Vietnam, including medical records from Ms. Tran's hospitalization following the police assault. Ms. Tran retained counsel promptly and did not cause any unreasonable delays in the proceedings. Moreover, DHS itself caused additional delay by exhausting the full thirty-day appeal window before filing its BIA appeal, and then compounded that delay by failing to serve counsel for an additional five days. DHS's own dilatory conduct weighs against the government on this factor. This factor is at minimum neutral and, in light of DHS's deliberate delay strategy, favors Ms. Tran.

Fourth, Ms. Tran's conditions of confinement weigh in her favor. At Otay Mesa, detainees are "locked up behind razor wire and concrete walls in a secured facility, forced to wear a color-coded prisoner jump suit, forbidden from accessing the internet, restricted access to outdoor space, restricted on visitation, and guarded at all times with armed guards authorized to inflict punishment for violations of rules." *Abdul Kadir*, 2025 WL 2932654, at *5. Accordingly, "Petitioner's confinement at OMDC is 'indistinguishable from penal confinement.'" *Id.* (quoting *Kydyrali*, 499 F. Supp. 3d at 773); These conditions are particularly acute for Ms. Tran, who was already traumatized by eight days of police detention and assault in Vietnam and now endures the prolonged stress of jail-like confinement in the United States.

1 Fifth, the likelihood that continued proceedings will result in a different final order strongly
2 favors Ms. Tran. Unlike the typical prolonged detention petitioner, Ms. Tran has already
3 prevailed on the merits before an immigration judge. An adjudicator has made the affirmative
4 factual finding — under the demanding "more likely than not" standard of 8 C.F.R. §
5 1208.16(c)(2) — that she would be tortured by Vietnamese authorities if removed. The
6 government must now ask the BIA to reverse those factual findings on appeal. It faces an uphill
7 battle: the BIA reviews the IJ's factual determinations with deference, and the IJ had before her
8 not only Ms. Tran's testimony but also documentary medical evidence of the prior abuse.
9 Whatever uncertainty exists about the outcomes of most immigration appeals, Ms. Tran has
10 already met and exceeded her burden of proof.
11
12 **IV. Because Immigration Judges' Neutrality Has Been Severely Compromised, This Court**
13 **Must Order Immediate Release, or at Least Put in Place Additional Safeguards**
14 In a perfect world, this Court could remedy the due process violation by ordering a bond hearing
15 before a neutral immigration judge, allowing the IJ to determine whether Ms. Tran poses a risk
16 of danger or flight. Unfortunately, attacks on IJ independence under the current administration
17 have severely compromised IJs' neutrality. As a result, there is a serious risk that an IJ will order
18 Ms. Tran's continued detention even if she poses no danger or flight risk. Several data points
19 support that conclusion.
20
21 First, the Trump administration has eliminated 128 IJs insufficiently aligned with the
22 administration's priorities, making clear to the remaining IJs the cost of ruling against the
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government.[1] These IJs are under no illusions about why their colleagues were let go. Former Baltimore IJ Emmett Soper stated: "I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers. I think that they see the immigration courts as a tool for this administration to advance its policy objectives."[2] Former San Francisco IJ Jeremiah Johnson understood "the hint that they should be hearing cases a certain way, deciding cases a certain way. Move faster. Less due process, essentially."[3] Former San Francisco IJ George Pappas was even more direct: "We were told to facilitate deportation… Due process is dead in immigration courts."[4]

This has had the predictable effect on those who remain. According to former San Francisco IJ Elizabeth Young, "I've talked to many of [the judges still serving], and they're like, 'When I go into court, I am concerned about applying the law, but I'm also concerned that I should deny more, because if I don't, then I'll get fired.'"[5] Meanwhile, Department of Justice recruitment materials have sought "deportation judges" to fill the empty IJ slots, inviting candidates to "bring the hammer down on criminal illegal aliens" and "defend your communities, your culture, your very way of life."[6]

[1] See Woo-Sun Lim, Former judge highlights legal failures in U.S. worker detentions, The Dong-A Ilbo (Sept. 20, 2025), https://www.donga.com/en/article/all/20250920/5859412/1.
[2] See Geoff Bennett & Ali Schmitz, Ousted Immigration Judge Describes Deepening Court Backlog, PBS NewsHour (Nov. 12, 2025), https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog.
[3] See Hilda Gutierrez, Michael Bott & Son Vo, 'An all-out attack on immigration court:' SF immigration judges speak out after firings, NBC Bay Area (Nov. 25, 2025), https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/.
[4] See Isabela Dias, "Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts, Mother Jones (Oct. 9, 2025), https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/.
[5] See Marco Poggio, Judges See an Immigration Court Gutted from Inside, Law360 (Oct. 31, 2025),
[6] See dhsgov, Instagram (Nov. 21, 2025), https://www.instagram.com/p/DRVT8DmCQKD/?hl=en.

1 Second, a parallel purge occurred at the BIA, which was reduced from 28 members to 15
2 members, with all Biden appointees fired. The statistical impact is stark. As of January 22, 2026,
3 the reconstituted BIA has issued 71 published decisions, of which 69 (97%) favored the
4 administration. By contrast, during the entire four-year span of the prior administration, the BIA
5 issued 76 published decisions, of which 46 (60%) favored the administration. The transformation
6 from 60% to 97% pro-government outcomes—achieved through wholesale termination of one
7 administration's appointees — speaks for itself.[7]
8
9 Third, EOIR's acting director, Sirce E. Owen, has issued sharply worded policy memoranda
10 encouraging IJs to side with the government and minimize due process.[8] These directives
11 include: a June 27, 2025, memorandum warning judges not to demonstrate "bias directed against
12 DHS" or to be "adjudicatory outliers," at risk of "close examination and potential action"; a
13 memorandum encouraging denial of asylum applications without full evidentiary hearings; and
14 memoranda restricting IJs' ability to grant continuances and administrative closure.[9]
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[7] See Am. Imm. Council, BIA Decision Strips Immigration Judges of Bond Authority, All but Guaranteeing Mandatory Detention for Undocumented Immigrants (Sept. 12, 2025), https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/.

[8] See E. Tammy Kim, Inside Donald Trump's Attack on Immigration Courts, New Yorker, https://www.newyorker.com/inside-donald-trumps-attack-on-immigration-court.

[9] See Exec. Off. for Immigr. Rev., Policy Memorandum 25-33, Neutrality and Impartiality in Immigration Court Proceedings (June 27, 2025), https://iptp-production.s3.amazonaws.com/media/documents/2025.06.27_EOIR_-_PM_25-33.pdf; a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to reduce due process protections, Exec. Off. for Immigr. Rev., Policy Memorandum 25-28, Pretermission of Legally Insufficient Application for Asylum (Apr. 11, 2025), https://www.justice.gov/eoir/media/1396411/dl?inline; and memoranda restricting immigration judges' ability to grant continuances, Exec. Off. for Immigr. Rev., Policy Memorandum 25-27, Cancellation of Director's Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13 (Mar. 21, 2025), https://www.justice.gov/eoir/media/1394086/dl, and administrative closure, Exec. Off. for Immigr. Rev., Policy Memorandum 25-29, Cancellation of Director's Memorandum 22-03 (Apr. 18, 2025), https://www.justice.gov/eoir/media/1397161/dl?inline.

1 Fourth, EOIR personnel have directed IJs to minimize compliance with federal court bond
2 orders. On January 13, 2026, following *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-
3 SSS-BFM (C.D. Cal. Nov. 20, 2025), Chief Immigration Judge Teresa L. Riley sent all IJs
4 instructions designed to limit their compliance with federal court habeas orders. Days later,
5 Judge Sykes issued a scathing order calling out "Respondents' deliberate choice to continue
6 defying the final judgment." *Palomera Baltazar v. Janecka*, No. 5:26-cv-00019-SSS-BFM at *2–
7 3 (C.D. Cal. Jan. 16, 2026).
8
9 The Otay Mesa IJs' resistance to granting bond thus accords with the larger movement to
10 eliminate or silence IJs who side with immigrants, while bringing those who remain into line
11 with the administration's priorities.
12
13 The "equitable and flexible nature of habeas relief" affords district courts significant discretion
14 over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v.*
15 *Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995)
16 ("[H]abeas corpus is, at its core, an equitable remedy"). This Court should order a remedy that
17 fully addresses the constitutional violations in this case. *Carafas v. LaVallee*, 391 U.S. 234, 238
18 (1968) (the habeas statute "does not limit the relief that may be granted to discharge of the
19 applicant from physical custody. Its mandate is broad with respect to the relief that may be
20 granted").
21
22 **Claim and Prayer for Relief**
23
24

1 Because ordering a bond hearing before a randomly selected immigration judge would not
2 reliably redress the constitutional violations present here—and because Ms. Tran has already
3 been vindicated on the merits—Petitioner urges this Court to provide corrective relief:
4
5 A. **First, Petitioner submits that immediate release is the most appropriate remedy.**
6 "In recent months, courts across the country have ordered the release of detainees in similar
7 situations." *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho
8 Jan. 2, 2026) (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025); *J.U. v.*
9 *Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Rosado v.*
10 *Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025)). Ms. Tran's
11 situation is stronger still: an immigration judge has already found on the merits that she is
12 entitled to protection. The government's interest in detaining her is at its nadir. *See Santiago v.*
13 *Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13–14 (W.D. Tex. Oct. 2, 2025) ("Without a
14 legitimate interest in her detention, immediate release appropriately remedies Respondents'
15 violation of [Petitioner's] due process rights through her continued detention.")
16
17 B. **In the alternative, Petitioner requests a custody hearing before this Court.**
18 The habeas court may hold its own custody hearing and determine whether the government can
19 prove by clear and convincing evidence that Petitioner must remain in custody, or whether she
20 may be released on recognizance. *See, e.g., L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405–07
21 (E.D.N.Y. 2025) (ordering bond hearing before the habeas court as more efficient than
22 delegating to the agency and to ensure proper constitutional oversight); *Flores-Powell v.*
23
24

1 *Chadbourne*, 677 F.Supp.2d 474, 478 (D. Mass. 2010) (discussing habeas court's equitable
2 power to hold its own bail hearing).
3
4 C. **At a minimum, the Court should order a bond hearing before an immigration**
5 **judge, with additional safeguards.**
6 Specifically, the Court should order:
7 - A bond hearing where the government shall bear the burden of establishing by clear and
8 convincing evidence that Petitioner poses a danger to the community or a risk of flight,
9 and further specifying that concerns about interrupting court schedules are not a ground
10 to deny bond;
11 - Retention of jurisdiction by this Court to review any immigration judge bond decision for
12 compliance with the Court's order and due process; and
13 - A prohibition on ICE from invoking the automatic stay provisions under 8 C.F.R. §
14 1003.19(i)(2) to defeat any bond determination in Petitioner's favor.
15
16 Order all other relief that the Court deems just and proper.
17
18 **Exhibit A: IJ Decision**
19 **Exhibit B: DHS Appeal**
20
21 DATED this 19 of May, 2026.
22
23 /s/ Morris Jacob Wilner
MORRIS JACOB WILNR
Attorney for Petitioner
24