

Roman Sokolov

NAME



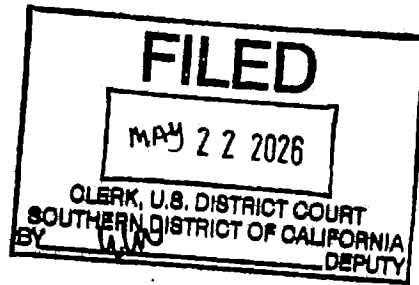
PRISON NUMBER

MTC Imperial Regional Detention Facility

PLACE OF CONFINEMENT

1572 Gateway Road, CALEXICO, CA 92231

ADDRESS



United States District Court
Southern District Of California

ROMAN SOKOLOV

(FULL NAME OF PETITIONER)

Petitioner

v.

WARDEN JEREMY CASEY

(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED
PERSON HAVING CUSTODY OF PETITIONER, E.G. PAROLE OFFICER)

Respondent

and

The Attorney General of the State of
California, Additional Respondent.

Civil No. '26CV3224 TWR JLB

(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

1. Are you currently:

☐ A pretrial detainee (waiting for trial on criminal charges)

☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

(a) Name and location of court that sentenced you: _____

(b) Docket or case number (if you know): _____

(c) Date of sentencing: _____

☒ Being held on immigration charge

☐ Other (explain): _____

2. Are you currently being held on orders by:

☒ Federal authorities ☐ State authorities ☐ Other - explain:

U.S. Department of Homeland Security (DHS)

3. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities
☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed
☐ Disciplinary proceedings
☐ Other (specify): _____

4. Provide more information about the decision or action you are challenging:

(a) Name and location of the court or agency:

U.S. Immigration and Customs Enforcement DHS.

(b) Case number, docket number or opinion number (if you know): 

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Record of Determination/Parole Determination Worksheet (ICE Form 71-013);

Credible Fear Applicant-Memo of Adverse Information (Rev 04/2015) See Exhibit A.

(d) Date of the decision or action: 10/01/2024, Exhibit A

5. Did you appeal the decision, file a grievance or seek an administrative remedy?

☐ Yes ☒ No

(a) If your answer to 5 was "Yes," give the following information:

(1) Name of court, agency or authority:

(2) Date of filing: _____

(3) Case number, docket number or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If your answer to 5 was "No," explain why you did not appeal: _____

No appeal available

6. After the first appeal, did you file a **second appeal** to a higher authority, court or agency?

☐ Yes ☒ No

(a) If your answer to 6 was "Yes," give the following information:

(1) Name of court, agency or authority: _____

(2) Date of filing: _____

(3) Case number, docket number or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If your answer to 5 was "No," explain why you did not appeal: _____

No appeal available

7. After the second appeal, did you file a **third appeal** to a higher authority, agency or court?

☐ Yes ☒ No

(a) If your answer to 7 was "Yes," give the following information:

(1) Name of court, agency or authority: _____

(2) Date of filing: _____

(3) Case number, docket number or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) If your answer to 7 was "No," explain why you did not appeal: _____
No appeal available

8. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available court remedies as to each ground on which you request action by the federal court. Moreover, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

You should *raise in this petition all available grounds* on which you base your allegations that you are being held in custody unlawfully.

GROUND ONE: I have been detained for over six months.

(a) **Supporting FACTS** (state *briefly* without citing cases or law)

1. Entered by the district court in *Jennings* for detainees held in the Central District of California "remains in place in the Central District of California until it is vacated by some further action by [the district court] or the Ninth Circuit." See Joint Status Report, *Rodriguez v. Martin*, No. CV 07-3239, at *2 (C.D. Cal. Mar. 5, 2018) (ECF No. 478).
2. All noncitizen within the Central District of California who: (1) Are or were detained for longer than six months pursuant to one of the general immigration detention statutes pending completion of removal proceedings, including judicial review; (2) Are not and have not been detained pursuant to a national security detention statute; and (3) Have not been afforded a hearing to determine whether their detention justified. See *Rodriguez v. Holder*, No. CV 07-3239 WL 5229795, at *1 (C.D. Cal. Aug. 6, 2013) (order granting permanent injunction).

3. The district court also approved subclasses, which correspond to the four general immigration detention statutes under which the class members are detained: 8 U.S.C. §§ 1225(b), 1226(a), 1226(c), and 1231(a). *Id.* On appeal, the Ninth Circuit had reversed the injunction as to Section 1231(a) subclass after concluding that “the § 1231(a) subclass does not exist.” *See Rodrigues*, 804 F.3d at 1086.
4. The district court clarified that the injunction requires hearings for all noncitizens detained more than six months with pending cases, including noncitizens with reinstated removal orders and those in withholding-only proceedings. *See Rodrigues*, 2013 WL 5229795, at *1. The permanent injunction requires an automatic bond hearing before the immigration judge at six months of detention, where the government bears the burden of justifying continued detention by clear and convicting evidence. *Id.* at *1-2. The court further required that the immigration judge consider releasing individuals on reasonable conditions of supervision in making its custody decision. *Id.* at *2.
5. Hundreds of other cases have involved Respondents’ outright refusal, inability, or failure to hold a timely bond hearing after being ordered to do so. *See Fernandez Alvarez v. Noem*, No. 2:26-CV-00313-SPC-DNF, 2026 WL 598614, at *1 (M.D. Fla. Mar. 4, 2026) (ordering immediate release after immigration judge found petitioner was detained 8 U.S.C. 1225(b)(2) and ineligible for bond even after habeas court had explicitly ordered otherwise). In *Diouf v. Napolitano (Diouf II)*, 634 F.3d 1081 (9th Cir. 2011), the Ninth Circuit held that prolonged detention under 8 U.S.C. § 1231(a)(6) is prohibited without an

individualized hearing to determine whether the person is a flight risk or a danger to the community. *See* Exhibit A at 5-8.

6. These failures include immigration judges denying bond in numerous cases without explanation or based on generics factors common to millions of people, such as merely being undocumented or having had any criminal contact, regardless of severity or proof of guilt. *See* Kyle Cheney, *Judges keep ordering immigration hearing – but say the results are a sham*, Politico, Mar. 6, 2016, available at <https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660>. *See, e.g., Aguilon Fuentes v. Bondi*, No. 1:26-cv-167-AJT-WEF (E.D.V.A. Feb. 24, 2026) (granting motion to enforce after immigration judge denied bond based on “flight risk” factors that were “so lacking in probative value” that they violated due process and would result in denying bond to most undocumented persons); *Lozhkina v. Noem*, 6:26-cv-3001-MDH (W.D. Mo. Feb. 10, 2026) (granting motion to enforce where immigration judge’s denial of bond based on flight risk lacked any record support and had “indications of predetermined outcome based on disagreement over [habeas court’s] previous order”). To avoid a wasteful round of enforcement proceedings – or even two – while unlawful detention continues, this court should grant release or hold any bail hearing itself.
7. Because prolonged detention without a hearing presents serious due process concerns, and the statute did not plainly authorize such detention, the Court construed Section 1231(a)(6) to require a custody hearing before an immigration judge where detention has

lasted six months. *Diouf II*, 634 F.3d at 1086. *Diouf II* clarified that “[a]s a general matter, detention is prolonged when it has lasted six months and is expected to continue more than minimally beyond six months.” *Id.* at 1092 n.13. The court also made clear that the government should not presumptively detain individuals for six months without a hearing. Rather, the government “should be encouraged to afford an alien a hearing before an immigration judge before the 180-day threshold has been reached if it is practical to do so, and it has already become clear that the alien is facing prolonged detention.” *Id.*

8. *Jennings* did not abrogate the Ninth Circuit’s ruling in *Diouf II*. See *Ramos*, 2018 WL 1317276, at *3 (“*Jennings* ... left untouched the Ninth Circuit’s requirement of such hearings for immigrants detained under section 1231(a)(6).”). The question of whether Section 1231(a)(6) can be construed to require a custody hearing over prolonged detention was not before the Court in *Jennings*. Moreover, citing its prior decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Court underlined that, in contrast to the order general immigration detention statutes, Section 1231(a)(6) may be construed to limit prolonged detention, as the Ninth Circuit did in *Diouf II*. As the Court explained, discussing its analysis of Section 1231(a)(6) in *Zadvydas*: “[T]he Court detected ambiguity in the statutory phrase ‘may be detained.’ “[M]ay” the Court said, “suggests discretion” but not necessarily “unlimited discretion. In that respect the word ‘may’ is ambiguous.” The Court also pointed to the absence of any explicit statutory limit on the length of permissible detention following the entry of an order of removal.”

9. The government are trying to accuse me of committing a particularly serious crime a retroactive redaction which suggests forgery of the document by the government (*see* Exhibit A at 15-17), when the offense committed is not one. I have committed a crime in a youth age in 1998 attempt hijacking (Joyriding) that at the age of 16, *see* Exhibit C at 9-10, 17-20 and Exhibit D at 16. *See In re Devison-Charles*, 22 I. & N. Dec. 1362 (B.I.A 2001) ("juvenile delinquency proceedings are not criminal proceedings, that acts of juvenile delinquency are not crimes, and that findings of juvenile delinquency are not convictions for immigration purposes"). *See also* Copyright 2019, *Immigrant Legal Resource Center*, (1663 Mission Street, Suite 602, San Francisco, CA 94103, 415.255.9499, www.ilrc.org), *Removal Defense: Defending Immigrants in Immigration Court*, August 2019, D. Youthful offender exception, Chapter 5 at 180 ("The second exception to the CIMT inadmissibility rule is the youthful offender exception. A young person who was convicted as an adult may qualify for the youthful offender exception. The person will not be inadmissible if while under the age of eighteen they committed only one offense involving moral turpitude, and the commission and release from any resulting imprisonment occurred over five years before the current application. INA § 212(a)(2)(A)(ii)(I). Note that a young person whose case was handled in juvenile delinquency proceedings does not need this exception, since those proceedings do not result in a conviction in the first place."). *See also Efe v. Ashcroft*, 293 F.3d 899 (5th Cir. 2002) (8 U.S.C. § 1182(a)(2)(A)(ii)(I) provides that the serious nonpolitical crime exception to asylum shall not apply to an alien who committed only one crime if the crime was committed when the alien was under 18 years of age *see*

Exhibit D at 9-11, and the crime was committed (and the alien was released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States). *See Matter of C-M-*, 5 I&N Dec. 327, 329 (BIA 1953) (finding that changes in the immigration laws did not affect prior administrative holdings that juvenile delinquency is not a crime). *See also United States v. Golding*, 162 F. Supp. 3d 1285 (U.S. Dist. 2016) ("An exception to the inadmissibility provision for criminal conduct is provided if the alien "was under 18 years of age and the crime was committed more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States").

10. In 2004 two acquaintances asked me to drive them home from work with their tools, it turned out that these acquaintances stole tools from work; I was sentenced Administration Offence in Russian Federation same Civil Offence in United States, to 1 year of correctional labor, with 10% of my salary paid to the state. *See Exhibit C at 17-20.* Although, this offense does not involve moral turpitude. Petty Offense Exception. *See Lafarga v. INS*, 170 F.3d 1213, 1214-15 (9th Cir. 1999) (quoting 8 U.S.C. § 1182(a)(2)(A)(ii)(II)). A CIMT will meet the petty offense exception if "'the maximum penalty possible for the crime of which the alien was convicted . . . did not exceed imprisonment for one year and . . . the alien was not sentenced to a term of imprisonment in excess of 6 months.'" *See also Mancilla-Delafuente v. Lynch*, 804 F.3d 1262, 1265 (9th Cir. 2015) (citing *Matter of Cortez*, 25 I. &N. Dec. 301, 307 (BIA2010)).

11. In the U.S Department of Homeland Security/ICE of Chief Counsel – IMP I provided a Character Reference *see* (Exhibit C at 1-10) that showed my rehabilitation, were I described that the crime was committed when I was a minor. *See* Exhibit C at 17-20. *See Matter of O’N-*, 2 I&N Dec. 319 (BIA, A.G. 1945) (holding that a crime committed by a minor in a foreign jurisdiction need not be considered a crime involving moral turpitude if the minor would have been treated as a juvenile offender under United States law). *See also Rodrigues v. Robbins*, 804 F.3d 1060 (9th Cir. 2015) (in the related case on remand from the Supreme Court, out court held that driving a stolen vehicle did not qualify as an aggravated felony). *See also Penuliar v. Mukasey*, 528 F.3d 603 (9th Cir. 2008) (Cal. Veh. Code § 11851(a) does not categorically qualify as theft offense because it extends liability to accessories after the fact for post-offense conduct. *Vidal*, 504 F.3d at 1077.).
12. Thus, individuals subject to prolonged detention under Section 1231(a)(6) in the Ninth Circuit should continue to receive custody hearings. *See also Humama v. Adducci*, — F. Supp. 3d —, 2018 WL 263037 (E.D. Mich. 2018) (ordering custody hearings for a nationwide class Iraqi Christians subject to detention under Section 1226(c) and 1231(a)(6) for six months, unless the government present evidence that the class member has extended their detention through bad faith or frivolous litigation tactics or other factors for why that detainee should not receive a bond hearing). In some cases, Immigration Judges have failed to conduct a neutral, individualized bond hearing or to place the burden of proof as ordered by the habeas court. *See Ulloa Bueno v. Soto*, No. 26-CV-896, 2026 WL 509102, at *2 (D.N.J. Feb. 24, 2026) (granting immediate release after

immigration judges *twice* failed to conduct a neutral bond hearing with the burden on DHS: "Continued detention in the face of repeated noncompliance with explicit judicial directives constitutes an ongoing deprivation of liberty without constitutionally sufficient process."); *Pedroso de Oliveira v. Freden*, No. 6:25-CV-6663 2025 WL 3554686, at *1 (W.D.N.Y. Dec. 11, 2025) (granting motion to enforce where "the IJ wholly failed to follow the Court's directions to require Respondents to bear the clear and convincing evidence burden of proof at the bond hearing, nor did the IJ even attempt to consider alternatives to detention."); *Mathon v. Searls*, 623 F. Supp. 3d 203, 208 (W.D.N.Y. 2022) (granting motion to enforce and ordering immediate release after the IJ did not hold DHS to his habeas court-ordered burden of proof or properly consider alternatives to detention, and thus "failed to provide him with the bond hearing to which he was constitutionally entitled").

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes ☒ No

GROUND TWO: The conditions of confinement.

(a) Supporting FACTS (state *briefly* without citing cases or law):

13. The condition of my confinement has been affecting me mentally, emotionally, psychologically, and Healthwise most times, I am deeply depressed as I have difficulties communications to my family and my children. See Exhibit B(ii). I have daily pain in my right side due to a chronic liver disease, Hepatitis C. See Exhibit B(i). See *Buendia v. Chestnut*, 2026 U.S. Dist. LEXIS 16222. When I sought medication at the MTC-IRDF

medical unit, I was repeatedly denied, citing my lack of health insurance. They only offered me painkiller medication. I have filed complaints with the Medical Facilities. I have now filed complaints with these instructions and am awaiting a response. *See* Exhibit B(i) at 65-72. The pain in my right side is getting worse daily. *See* Exhibit B(i) at 1-65. *See F.A.L. v. Rios*, 2026 U.S. Dist. LEXIS 50430. *See also Ayala v. Olson*, 2025 U.S. Dist. LEXIS 225440.

14. Being held in custody like being in prison: (1) Constant threats from guards who have the power to send me to another facility with worse conditions. (2) Televisions and library time are limited, regardless of established rules. (3) Checking personal staff every week everyone is taken outside into little yard in unit. (4) Everyone is taken out into the exercise yard for two hours, forcibly, threatened with being sent to a punishment cell called "alfa" for disobedience, regardless of their wishes or health, where there are few places to hide from the scorching sun. (5) The security staff treats us like criminals who have committed particularly serious crimes (they yell, abuse their authority, and insults). (6) Some guards even ask why we come here if we don't speak English or Spanish? (7) I experience violations of laws and rights on a daily basis. (8) The food they provide is of poor quality, the water is highly chlorates and poor quality. (9) Medical facility in MTC-IRDF offered only painkiller, do not give for medical treatment.

15. If rights Petitioners were violation, he should be immediate release from illegal custody.

The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *See*

Velasco Lopez v. Decker, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995) (“[H]abeas corpus is, at its core, an equitable remedy”).

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes ☒ No

GROUND THREE: My detention has become unconstitutionally prolonged and violates the Fifth Amendment to the United States Constitution.

(a) Supporting FACTS (state *briefly* without citing cases or law):

16. The Fifth Amendment to the United States Constitution provides that “No person shall be ... deprived of life, liberty, or property, without due process of law,” U.S. Const. Amend. V. The Supreme Court has held that the Due Process Clause of the United States Constitution applies to all persons within the United States, including aliens, whether their presence here is lawful, temporary or permanent. *See Zadvydas v. Davis*, 533 U.S. at 693. The Third Circuit has ruled that criminal aliens detained pending removal proceedings pursuant to 1226(c) of the INA have a due process right to a bond hearing once their detention becomes unreasonable. *See German Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203 (3rd Cir. 2020). In determining whether the detention of a person facing deportation is reasonable, the courts must consider four factors: (1) the duration of the detention; (2) whether the detention is likely to continue; (3) reasons for the delay; (4) whether the detainee’s conditions of confinement are “meaningfully different from criminal punishment.” *Id* at 210-211. The same inquiry applies whether the person is held pursuant to Section 1225(b) or 1226(c). *See German Santos v. Warden Pike County Correctional Facility*, 965 F.3d at 210.

17. I arrived in Mexico 12/2023; I registered in the CBP One is a mobile application launched by the U.S. Department of Homeland Security, which to provide a portal to a variety of Custom and Border Protection services. *See* DHS/CBP/PIA-068 CBP One TM Mobile Application, U.S. Department of Homeland Security. Waiting for an appointment in Mexico with an ICE Officer at the border 08/25/2024. I am cooperated fully with ICE's efforts to remove me by providing information about my country of birth and country of citizenship, signing transfer documents, providing fingerprints and identification documents. *See* Exhibit A at 1-4, 9-14, and 18-50. In the alternative, the habeas court can hold its own custody hearing and determine whether ICE can prove by clear and convincing evidence that Petitioner must remain in custody, or whether he may be released on recognizance, an appropriate bond in light of his ability to pay, or supervised release. This is a more efficient and effective remedy than ordering an immigration judge to conduct a hearing, which may lead to additional enforcement proceedings and delays before the unlawful detention in this case is remedied. *See L.G.M. v. LaRocco*, 788 F. Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Ramires v. Watkins*, No. 10-cv-126, 2010 WL 6269226, at *19-20 (S.D. Tex. Nov. 3, 2010), *rep. and rec not reached*, (S.D. Tex. Dec. 8, 2010) (dismissing case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more efficient, ensure supervision over any compliance issues, and avoid further proceedings).

18. On the ICE Form 71-013 (12/09), the ICE Officer noted that I "detainee has not established residing address" (*see* Exhibit A at 7-8), thereby denying my release from the MTC-IRDF. This occurred despite the fact that I had provided a sponsor's address (*see* Exhibit A at 51-66) and the port entry into the United States 8/26/2024, discussed this with the CBP Officer Loja Jr Carlos (*see* Exhibit A at 12. Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act), as well as with the Asylum Officer E Pomplun during my credible fear interview on 09/10/2024 (*see* Exhibit A at 46. Record of Determination/Credible Fear Worksheet. 1.6 Intended destination upon release from detention or non-detained address in the U.S.: I'm going to my sponsor in Sacramento, and at 51-66). Without providing any evidence, refused to release me "Parole denied; Subject has not established that they will not pose a threat to public safety or risk of flight if released from agency custody." *See* Exhibit A at 7-8. Release is the customary remedy in habeas proceedings. *See* 28 U.S.C. § 2243 (the habeas should shall "dispose of the matter as law and justice require."); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (filing "that the traditional function of the writ is to secure release from illegal custody").

19. Furthermore, an examination of the Credible Fear Interview will reveal a retroactive redaction which suggests forgery of the document by the government (*see* Exhibit A at 15-17 (information from U.S. Citizenship and Immigration Services National Records Center) and at 49-50), since at the Credible Fear Interview in order to justify the fear of returning to my country Russia, the ICE Officer provided me with documents on 09/17/2024 *see* Exhibit A at 18-50, but later these documents were provided backdated. *See*

Exhibit A at 15-17 (information from U.S. Citizenship and Immigration Services National Records Center) and at 49-50. ICE Officer also asked me to sign a document, which I signed without understanding what it said because I don't speak English and Spanish, without providing me with an interpreter. *See* Exhibit A at 18-23. *See also A.D. v. Oddo*, 3:25-cv-460-SLH-MPK, Dkt. No. 40 (W.D.P.A. Feb. 12, 2026) (granting motion to enforce and ordering immediate release where [IJ] did not provide correct interpreter, then incorrectly called the petitioner "evasive" in [denying bond])). The most appropriate remedy in a case like this, where Petitioner has been detained in violation of both the INA and due process, is release on recognizance without further conditions of release. *See Ambroladze v. Maldonado*, No. 26-CV-00474 (HG), 2026 WL 280182, at *3 (E.D.N.Y. Feb. 3, 2026) (given that the typical remedy for unlawful detention is release, "the government's ongoing detention of Petitioner, in the face of yet another complete failure of process, entitles him to immediate release.").

20. I am arriving asylum seeker. *See* exhibit D at 1-14. If arriving asylum seekers have limited due process rights with respect to the procedures for *admission*, they still have a right to freedom from prolonged *detention* that is not needed to serve its purpose. Indeed, *Zadvydas* makes clear that the government's power to exclude and its power to detain are distinct for due process purposes. The detainees there had lost all legal right to reside in the United States, but the Supreme Court nonetheless recognized their interest in "[f]reedom from ... physical restraint," 533 U.S. at 690, which protects against arbitrary imprisonment. *See also Rosales-Garcia*, 322 F.3d at 412-13.

21. Arriving asylum seekers have been determined to have a credible fear of persecution and been referred for full adjudication of that claim in removal proceedings. See Exhibit A at 24-50. Congress has afforded them a right to be in the U. S. while their asylum claim is pending. The record in *Jennings* established that *two-thirds* of arriving asylum seekers subject to prolonged detention (defined as six months or more) win asylum and thus the right to live permanently in the U. S. See *Jennings*, 138 S. Ct. at 860 (Breyer, J., dissenting). Justice Breyer, in a dissent joined by Justices Ginsburg and Sotomayor, rejected the government's argument. See *Jennings*, 138 S. Ct. at 862-63 (Breyer, J., dissenting) (declining to apply the entry fiction because "the Constitution does not authorize arbitrary detention."). Moreover, in his dissent in *Zadvydas*, Justice Kennedy previously wrote that "inadmissible aliens" who are "stopped at the border" are "entitled to be free from detention that is arbitrary or capricious." See *Zadvydas*, 533 U.S. at 720-21.

22. Applying the canon of constitutional avoidance, the court thus construed the statutes to require an automatic bond hearing before the immigration judge at six months of detention. See *Rodriguez*, 804 F.3d at 1078-85. See also *Zadvydas v. Davis*, 533 U.S. 678, 869 (courts should construe statutes to avoid serious constitutional concerns when it is "fairly possible" to do so). Note: Arriving asylum seekers held in the Western District of New York are currently entitled to a custody hearing after six months pursuant to a class-wide preliminary injunction entered in *Abdi v. Duke*, — F. Supp. 3d —, 2017 WL 5599521 (W.D.N.Y. 2017).

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes ☒ No

GROUND FOUR: There is not significant likelihood of my release from detention in the near future.

(a) **Supporting FACTS** (state *briefly* without citing cases or law):

23. After more than 8 months and several court hearings, the immigration judge ordered my deportation on May 23, 2025. *See* Exhibit D at 1-14. I failed Notice of Appeal to the Board of Immigration Appeals (BIA) 06/02/2025 and respond decision 10/17/2025. *See* Exhibit D at 15-17. Government attorneys have also tried to disavow responsibility for ensuring their clients will comply with future court orders. *See Vargas v. Bondi*, No. 25-cv-1023, 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), *report and recommendation adopted*, No. 25-cv-1023, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025) (recommending immediate release, in part because respondents argued that “if this Court ordered a hearing, it would require the immigration judge to do that which, in light of BIA precedent, the judge would not believe he had any authority to do”); *O.F.C. v. Almodovar*, No. 25-cv-9816, 2026 WL 74262, at *16 (S.D.N.Y. Jan. 9, 2026) (expressing concern that at oral argument, government counsel refused to guarantee that in a court-ordered bond hearing, ICE would not invoke the automatic stay or argue that the IJ lacked jurisdiction to set bond; either action “would render the Court’s intended relief illusory”).

24. I have now filed a petition for review (Notice of Appeal, 11/07/2025) with the Ninth Circuit Court of Appeals, which could stretch to a year or more. I failed a motion for stay of removal on 11/14/2025 and was granted a stay pending a decision by the Ninth Circuit 03/04/2026. *See* Exhibit D at 18-21. Release is the only appropriate remedy for the constitutional violations in the case, including the lack of pre-deprivation notice or individualized review before Petitioner’s arrest, which cannot be remedied by a post-

deprivation hearing. *See Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing).

25. I have been currently detained for over 20 months with no bond hearing. Court in this circuit have recognized a six-month "presumptively reasonable period of detention" after when "the alien is eligible for constructional release if he can demonstrate that there is no significant likelihood of removal in the reasonably foreseeable future." *Clark v. Martinez*, 543 U.S. 371, 378, 125 S. Ct. 716, 160 L. Ed. 2d 734 (2005) (quoting *Zadvidas*, 533 U.S. at 701).

26. I have never been called or spoken to concerning my release from detention since I was taken into custody. *See Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003) (requiring release when mandatory detention exceeds a reasonable period of time). This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer. *Garafas v. LaVallee*, 391 U.S. 234, 238 (1968) (the habeas statute "does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may by granted").

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes ☒ No

9. If any of the grounds listed in 4A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not presented, and give your reasons for not presenting them: _____

10. Do you have any petition or appeal now pending in any court, either state or federal, as to the execution of sentence under attack?

☐ Yes ☒ No

11. Give the name and address, if known, of each attorney who represented you in the following stages of the execution of sentence attacked herein:

(a) In any post-conviction proceeding

N/A

(b) On appeal from any adverse ruling in a post-conviction proceeding

N/A

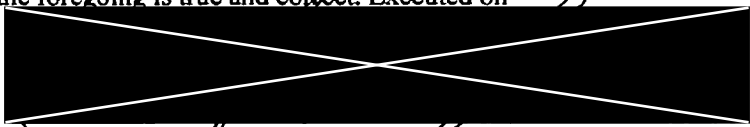
Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

5/19/2026

(DATE)



SIGNATURE OF PETITIONER