

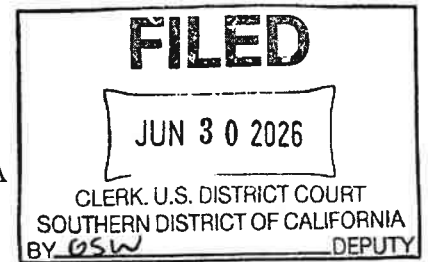
UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF CALIFORNIA

SODHI SINGH
Proceeding Pro Se,

Petitioner,

v.

_____, WARDEN, Otay Mesa Detention Center;
_____, FIELD OFFICE DIRECTOR, ICE San Diego Field
Office; DAVID VENTURELLA, Acting Director, United
States Immigration and Customs
Enforcement; MARKWAYNE MULLIN, Secretary of
Homeland Security; TODD BLANCHE, Acting Attorney
General, United States,
Respondents.



Civil Action No.: '26CV3797 DMS GC

**MEMORANDUM OF LAW IN
SUPPORT OF PETITIONER'S
SECOND PETITION FOR WRIT OF
HABEAS CORPUS**

I. PRELIMINARY STATEMENT

This is a new and independent habeas action brought pursuant to 28 U.S.C. § 2241. It is based on new facts and a new custody posture that arose after the conclusion of Petitioner's prior habeas proceeding.

The prior habeas petition challenged Petitioner's prolonged detention without a constitutionally adequate bond hearing. The present habeas petition challenges the legality of Petitioner's continued detention after the court-ordered bond hearing failed to cure the underlying constitutional violation.

This second habeas petition is not duplicative. The adverse bond decision, the Immigration Judge's failure to meaningfully apply the clear and convincing evidence standard, the exhaustion or attempted exhaustion before the Board of Immigration Appeals, and the passage of approximately eighteen months of civil detention are all new facts supporting a new due process claim.

This petition does not seek to reopen the prior habeas proceeding. Nor does it seek to relitigate the same issue previously presented. It challenges a different and continuing constitutional injury: Petitioner's continued detention after a defective bond hearing failed to cure the due process

violation identified in the prior case.

II. STATEMENT OF FACTS

1. Petitioner has been detained continuously by Immigration and Customs Enforcement (“ICE”) since December 13, 2024, a period of approximately eighteen months.
2. Petitioner is an asylum seeker with no criminal history.
3. Petitioner filed his first federal habeas petition in Case No. 3:26-cv-00913-CAB-BJW, challenging his prolonged detention without a constitutionally adequate bond hearing.
4. On March 4, 2026, this Court partially granted the writ, finding that Petitioner’s detention violated the Due Process Clause and ordering Respondents to provide Petitioner with an individualized bond hearing.
5. This Court ordered that, at the bond hearing, the Government must justify Petitioner’s continued detention by clear and convincing evidence that Petitioner would likely flee or pose a danger to the community if released.
6. A bond hearing was held in March 2026. The Immigration Judge denied bond.
7. Petitioner contends that the Immigration Judge failed to meaningfully apply the clear and convincing evidence standard mandated by this Court.
8. Petitioner’s appeal of the underlying removal decision remains pending before the Board of Immigration Appeals.
9. There is no final, executable order of removal against Petitioner.
10. After the adverse bond determination, Petitioner filed an Amended Petition seeking immediate release.
11. On June 23, 2026, this Court dismissed that Amended Petition solely on the ground that Petitioner had not exhausted administrative remedies by appealing the Immigration Judge’s

adverse bond determination to the Board of Immigration Appeals, citing *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

12. The Court did not rule that approximately eighteen months of detention was constitutional.

13. The prior dismissal was procedural, not a decision on the merits of Petitioner's prolonged detention claim.

14. This petition does not ask for "another" bond hearing as the primary remedy. It is a new and direct challenge to the continuing unconstitutional detention that the defective, court-ordered hearing failed to cure.

III. ARGUMENT

A. This Second Habeas Petition Is a New Action Based on New Facts and a Changed Custody Posture, Not a Duplicative or Repetitive Filing.

This petition attacks a different situation than the first habeas petition.

The first habeas petition attacked Petitioner's prolonged detention without a bond hearing. This second habeas petition attacks Petitioner's continued detention after the court-ordered bond hearing, where the Immigration Judge denied bond without meaningfully applying the correct constitutional standard.

The present petition arises from a new custody posture. The bond hearing occurred, but the Immigration Judge failed to meaningfully apply the constitutionally mandated clear and convincing evidence standard, rendering the hearing procedurally defective and incapable of curing the ongoing Due Process violation.

The adverse bond decision, the Immigration Judge's failure to apply the correct legal standard, and the passage of additional months of detention are all new facts supporting a new claim.

The procedural posture here is analogous to *Rafaela Neri Angel v. Warden*, No. 5:26-cv-03269-

MWC-JDE (C.D. Cal. June 18, 2026). That case demonstrates that a second habeas is proper when new facts arise after the first proceeding. There, the petitioner filed a prior habeas petition that resulted in a court-ordered bond hearing. After the Immigration Judge denied bond, the petitioner filed a new habeas petition seeking immediate release. The court granted the second petition, recognizing that the post-deprivation bond hearing did not cure the initial constitutional violation. *Rafaela Neri Angel* demonstrates that a second habeas petition is procedurally proper when it challenges the legality of continued detention based on events that occurred after the first habeas proceeding, including an adverse and constitutionally defective bond hearing.

B. The Prior Dismissal Was Based on a Procedural Defect That Has Now Been Cured or Should Be Excused.

The Court's prior dismissal in *Sodhi Singh* was based entirely on a procedural defect, not on the merits of Petitioner's prolonged detention claim.

The judge did not rule that eighteen months of detention was constitutional. The judge dismissed solely on the procedural ground that Petitioner had failed to exhaust his administrative remedies by appealing the Immigration Judge's adverse bond determination to the Board of Immigration Appeals.

The Court explicitly noted that only after Petitioner had exhausted his administrative remedies by appealing to the Board of Immigration Appeals and receiving a decision regarding the Immigration Judge's adverse bond determination may he seek relief in this Court.

Petitioner does not ask this Court to bypass the administrative process. The prior dismissal was based on exhaustion, not on the merits.

If Petitioner has now appealed the Immigration Judge's bond denial to the Board of Immigration Appeals and received a decision, the procedural defect identified in *Sodhi Singh* has been cured.

If the Board of Immigration Appeals has not yet decided the bond appeal, strict exhaustion should be excused because prolonged detention causes irreparable harm, there is no adequate remedy at law, and the Board of Immigration Appeals appeal does not suspend the ongoing constitutional violation.

C. The Post-Order Bond Hearing Failed to Cure the Ongoing Constitutional Violation, and Another Hearing Would Reward Noncompliance.

This Court's prior order gave the Government a clear opportunity to justify Petitioner's detention under the correct constitutional standard. The Government was required to prove by clear and convincing evidence that Petitioner would likely flee or pose a danger to the community if released. Petitioner contends that the Government failed to meet its burden and that the Immigration Judge failed to enforce this Court's order. A post-deprivation hearing that fails to adhere to a federal court's explicit constitutional mandate is not a remedy. It is a continuation of the due process violation.

The Government had its chance to comply. Ordering yet another hearing would reward noncompliance and would allow the Government to prolong detention through repeated defective proceedings.

The court in *Charan S. v. Warden*, No. 1:26-cv-03017-TLN-JDP (E.D. Cal. Apr. 28, 2026), held that a post-deprivation, court-ordered bond hearing does not retroactively cure the initial constitutional violation. The court found that to hold otherwise would lead to an "absurd result" where the "Government would have a blank check to unilaterally detain every noncitizen without providing any process" until a federal court intervened.

As the court stated in *Charan S.*, "The relief for a constitutional violation cannot be to merely bring the Government into compliance — it must be to restore the liberty that was lost."

That reasoning applies here. Petitioner has been detained for approximately eighteen months. He already received a court-ordered bond hearing, but that hearing failed to cure the constitutional violation. The appropriate remedy is release.

D. Approximately Eighteen Months of Unconstitutional Detention Requires Immediate Release as the Only Adequate Remedy.

After approximately eighteen months of civil confinement for a non-criminal asylum seeker, and after the Government failed to justify that detention under the correct legal standard when ordered to do so, immediate release is the only just remedy.

“The typical remedy in habeas for unlawful detention is, of course, release.” *Munaf v. Geren*, 553 U.S. 674, 693 (2008).

Civil immigration detention cannot be punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Applying *Mathews v. Eldridge*, 424 U.S. 319 (1976), continued detention violates due process.

First, Petitioner’s private interest in freedom from physical restraint is profound.

Second, the risk of erroneous deprivation is extraordinarily high given the Immigration Judge’s failure to meaningfully apply the standard mandated by this Court.

Third, the Government’s interest is weakened by the lack of a final, executable removal order and by the Government’s failure to meet the evidentiary burden required to justify continued detention.

The balance weighs strongly in favor of immediate release.

E. Recent Federal Decisions Confirm That Continued Detention Without Constitutionally Adequate Process Requires Relief.

Federal courts have repeatedly ordered release where the Government detained or re-detained a person without constitutionally adequate process.

A clear line of cases establishes that when an individual was previously released or otherwise

enjoyed liberty, ICE cannot re-detain them without constitutionally adequate process before a neutral judge.

This principle was affirmed in *Selis Tinoco v. Noem*, No. 1:25-cv-01762-DC-JDP (E.D. Cal. Dec. 14, 2025); *Lainez Escobar v. Warden*, No. 1:26-cv-03391-DC-AC (E.D. Cal. May 15, 2026); *Wang v. Warden*, No. 1:26-cv-03460-DC-SCR (E.D. Cal. June 24, 2026); and *F.Z. v. Semaia*, No. 5:26-cv-00634-MRA-SP (C.D. Cal. Apr. 14, 2026), all of which resulted in orders of immediate release.

Courts have also rejected the Government's attempts to subject long-term residents to mandatory detention without bond under the flawed theory that they are "arriving aliens" under 8 U.S.C. § 1225(b).

In *Barajas Ortiz v. Chestnut*, No. 1:26-cv-01167-DC-SCR (E.D. Cal. Feb. 24, 2026), the court ordered immediate release for a noncitizen who had lived in the United States for over thirty-four years with an approved family petition and no criminal record.

Similarly, in *Alvarez Maciel v. Noem*, No. 1:26-cv-01318-DC-CKD (E.D. Cal. Feb. 23, 2026), the court ordered immediate release for a twenty-year resident, holding that § 1226(a) applied.

Courts have also ordered release where detainees have strong equities and face prolonged detention.

In *Cabreja Liranza v. Warden*, No. 1:26-cv-03512-JLT-EGC (E.D. Cal. May 22, 2026), a Cuban national with no criminal record who was re-detained after being released on recognizance was granted habeas and immediate release.

In *Zhou Xiaxuan v. Warden*, No. 5:26-cv-02431-HDV-PD (C.D. Cal. June 4, 2026), the court ordered the immediate release of a petitioner with U.S. citizen family who had been detained after a bond denial while his Board of Immigration Appeals appeal was pending.

Together, these cases demonstrate that when the Government cannot provide a constitutionally adequate justification for continued civil detention, liberty must be restored.

IV. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant the petition for writ of habeas corpus;
2. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment;
3. Order Respondents to immediately release Petitioner from ICE custody under reasonable conditions of supervision;
4. Order Respondents not to transfer Petitioner outside this District while this habeas matter is pending;
5. Order Respondents not to remove Petitioner from the United States while his underlying administrative appeal and this habeas matter remain pending;
6. In the alternative only, if the Court declines to order immediate release, order Respondents to provide a new constitutionally adequate bond hearing at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary, the Immigration Judge considers less restrictive alternatives, and the Immigration Judge makes individualized findings on danger and flight risk; and
7. Grant any other relief the Court deems just and proper.

Dated: June 25, 2026

Respectfully submitted,

/s/ Sodhi Singh
Sodhi Singh
Pro Se