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RAMIRO TRUJILLO HERNANDEZ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAMIRO TRUJILLO HERNANDEZ,

Petitioner,

v.

WARDEN OF THE GOLDEN STATE ANNEX
DETENTION FACILITY ET AL,

Respondents.

Case No. 1:25-cv-01711-WBS-SCR

**PETITIONER'S TRAVERSE TO
RESPONDENTS' RETURN**

I. INTRODUCTION¹

Respondents do not dispute that Petitioner has now been detained for approximately nine months without a bond hearing. They instead argue that because Petitioner is detained under 8 U.S.C. § 1226(c), and because removal proceedings are ongoing, his detention is “per se constitutional.” That argument overreads *Demore v. Kim*, 538 U.S. 510 (2003), and *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and ignores the constitutional limits on prolonged civil detention.

¹ Petitioner prepared this Traverse on February 24, 2026 and files it promptly following contemporaneous motion practice.

1 Petitioner does not challenge the initial application of § 1226(c). He challenges the
2 continued detention without any individualized hearing after many months of confinement while
3 removal proceedings remain in an early stage. The Due Process Clause requires more.

4 **II. PETITIONER DOES NOT DISPUTE THAT § 1226(c) GOVERNS HIS INITIAL**
5 **DETENTION**

6 Respondents correctly note that Petitioner was convicted in 2007 of attempted murder
7 under California Penal Code §§ 664/187 and sentenced to an indeterminate term with a 20-year
8 enhancement.

9 They further assert that this conviction renders him subject to mandatory detention under
10 § 1226(c).

11 For purposes of this habeas petition, Petitioner does not dispute that § 1226(c) authorizes
12 his initial detention upon release from criminal custody.

13 The issue before this Court is not whether Congress may mandate detention at the outset
14 of removal proceedings. The issue is whether the Constitution permits continued civil detention
15 for many months without any individualized review.

16 **III. DEMORE DOES NOT AUTHORIZE PROLONGED DETENTION WITHOUT A**
17 **HEARING**

18 Respondents rely heavily on *Demore v. Kim*, 538 U.S. 510 (2003). But Demore upheld
19 mandatory detention in the context of what the Supreme Court repeatedly described as a “brief”
20 and “limited” period of confinement.

21 In *Demore*, the Court relied on statistical evidence showing that detention under §
22 1226(c) lasted, on average, approximately one and a half to five months. 538 U.S. at 529–31.
23 The Court emphasized that detention has a “definite termination point” at the conclusion of
24 removal proceedings. *Id.*

25 Here, Petitioner has already been detained approximately nine months. His individual
26 merits hearing is not scheduled until April 22, 2026, which would bring his detention to nearly
27 eleven months before any adjudication of relief. That far exceeds the “limited period”
28 contemplated in *Demore*.

1 *Demore* did not hold that detention under § 1226(c) is constitutionally unreviewable so
2 long as proceedings are technically pending. It upheld detention in the context of short-term
3 confinement. The Constitution still limits prolonged civil detention.

4 Respondents' argument that detention is "per se constitutional" so long as proceedings
5 remain pending finds no support in *Demore* or *Jennings*. Neither decision held that mandatory
6 detention is immune from as-applied constitutional scrutiny. Rather, both decisions recognized
7 detention as tied to removal proceedings of limited duration. Where detention extends far beyond
8 the brief period contemplated in *Demore*, individualized review becomes constitutionally
9 required.

10 **IV. PETITIONER'S DETENTION HAS BECOME PROLONGED**

11 As of this filing, Petitioner has been detained since May 20, 2025. His merits hearing is
12 scheduled for April 22, 2026. There is no guarantee that proceedings will conclude on that date,
13 and any decision may be subject to appeal.

14 The fact that Petitioner was transferred directly from criminal custody to ICE detention
15 does not eliminate constitutional limits on the duration of civil confinement. That procedural
16 sequence does not eliminate constitutional limits on the duration of subsequent civil immigration
17 detention.

18 The length of detention, the early procedural posture of the case, and the absence of any
19 bond hearing together render this detention prolonged for constitutional purposes.

20 **V. PETITIONER'S CONTINUANCE REQUESTS DO NOT DEFEAT HIS DUE** 21 **PROCESS CLAIM**

22 Respondents emphasize that Petitioner requested multiple continuances in immigration
23 court. That argument is misplaced.

24 First, Petitioner requested continuances to obtain counsel and prepare his case. The right
25 to seek representation and prepare applications for relief is fundamental to removal proceedings.
26 Exercising those rights cannot constitutionally justify indefinite incarceration.

1 Second, the Immigration Judge—not Petitioner—granted the continuances over DHS
2 objection in some instances. The fact that an Immigration Judge determined additional time was
3 appropriate underscores that proceedings remain active and unresolved.

4 Third, even accounting for continuances, Petitioner’s detention has extended far beyond
5 the brief period contemplated in *Demore*. The Constitution does not permit the government to
6 avoid individualized review simply because a detained noncitizen seeks time to exercise
7 procedural rights.

8 **VI. DUE PROCESS REQUIRES AN INDIVIDUALIZED HEARING AFTER**
9 **PROLONGED DETENTION**

10 The Fifth Amendment protects against arbitrary civil confinement. Even where detention
11 is authorized by statute, continued detention without an individualized determination of flight
12 risk or dangerousness raises serious constitutional concerns.

13 Petitioner does not seek immediate release without conditions. He seeks a bond hearing at
14 which the government bears the burden of demonstrating, by clear and convincing evidence, that
15 his continued detention is necessary.

16 That limited remedy respects Congress’s authority under § 1226(c) while ensuring that
17 prolonged civil detention complies with the Constitution.

18 **VII. REMOVAL PROCEEDINGS HAVE A “DEFINITE TERMINATION POINT,”**
19 **BUT THAT DOES NOT END THE INQUIRY**

20 Respondents argue that detention is constitutional because removal proceedings have a
21 definite termination point. But the mere existence of a future hearing date does not resolve
22 whether continued detention without individualized review is reasonable.

23 A “definite termination point” does not eliminate constitutional scrutiny where detention
24 approaches or exceeds one year without any bond hearing.

25 **VIII. RELIEF REQUESTED**

26 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 27 1. Grant the Petition for Writ of Habeas Corpus and order Petitioner’s immediate release
28 from immigration detention;

2. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within seven (7) days, at which:
 - The government bears the burden of proof;
 - The standard is clear and convincing evidence;
 - The Immigration Judge must consider alternatives to detention; and
 - Release must be ordered unless the government meets its burden;
3. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Date: February 24, 2026

/s/ Roger Humberto Ponce, Jr.
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Attorney for Petitioner