

DETAINED

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

In the matter of:

KSENIIA RUMIANTSEVA

Petitioner

v.

**CHRISTOPHER J. LAROSE,
WARDEN OF OTAY MESA
DETENTION CENTER**

Respondents

) Case Number: 26-cv-2214-JO-DEB



) PETITIONER'S REPLY TO
) RESPONDENTS' OPPOSITION
) TO MOTION TO ENFORCE
) JUDGMENT

) Challenge to Unlawful
) Incarceration; Request for
) Declaratory and Injunctive Relief



**I. PETITIONER DID NOT RECEIVE A CONSTITUTIONALLY
ADEQUATE BOND HEARING**

1. Petitioner did not receive a constitutionally adequate bond hearing. The Immigration Judge failed to conduct a meaningful individualized assessment of whether Petitioner posed a danger or flight risk and instead offered a conclusory determination unsupported by reasoning or evidence.
2. A constitutionally adequate bond hearing requires that the government bear the burden of proof; that the burden be satisfied by clear and convincing evidence; and that the adjudicator provide an individualized determination supported by reasoned analysis, including consideration of alternatives to detention and the noncitizen's ability to pay. See *Rodriguez-Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022).
3. Those requirements were not satisfied here. Petitioner has now been detained for approximately **19 months**, without receiving a constitutionally adequate bond hearing, rendering her continued detention unlawful.
4. Although she was provided a hearing before an Immigration Judge, that proceeding failed to satisfy due process because the government was not required to meet the constitutionally mandated burden of proof, the decision relied on unsupported assertions, and the court failed to meaningfully consider alternatives to detention, Petitioner's ability to pay, and overwhelming evidence of her community ties.
5. Despite these extraordinary humanitarian factors, Respondents continue to detain Petitioner without meaningful review of whether her continued custody is justified. Her prolonged detention, under these circumstances, violates the Due Process Clause of the Fifth Amendment.
6. Petitioner has now fully exhausted available administrative remedies by timely appealing the Immigration Judge's custody determination and denial of relief to the



Board of Immigration Appeals. Because administrative review cannot remedy the ongoing constitutional violations caused by his prolonged detention, habeas relief is appropriate and necessary.

7. The absence of a reasoned explanation is independently sufficient to render the bond determination defective. See *Rodriguez-Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022). Courts in this District, including this Court, have required that detention decisions be preceded by a procedurally adequate hearing before a neutral adjudicator. See *Mustafa Anif Afshar v. Marin*, No. ED 26-cv-00308-JAK (C.D. Cal. Apr. 7, 2026) (requiring a pre-detention hearing before a neutral immigration judge); *Vilca Yataco v. Warden*, No. 5:25-cv-03229-JAK (C.D. Cal. Jan. 16, 2026) (prohibiting re-detention absent a hearing where the government proves necessity by clear and convincing evidence).
8. This Court has already recognized that detention decisions must be preceded by a neutral adjudicatory process sufficient to satisfy due process.
9. Even if the Court were to assume procedural compliance, the record contains no evidence establishing that detention is necessary to mitigate flight risk or danger. The government has failed to show any nexus between Petitioner’s continued detention and its purported purposes.

II. CONSTITUTIONAL CHALLENGES TO MANDATORY DETENTION ARE PERMISSIBLE

10. Petitioner challenges her prolonged detention on constitutional, not statutory grounds. Although she is detained pursuant to 8 U.S.C. § 1225(b), such detention remains subject to constitutional limits.
11. The Supreme Court has not foreclosed as-applied constitutional challenges to mandatory detention. *Jennings v. Rodriguez*, 583 U.S. 281 (2018), did not resolve



1 constitutional questions. Likewise, while *Demore v. Kim*, 538 U.S. 510 (2003),
2 rejected a facial challenge, it recognized the availability of constitutional review in
3 individual cases.

4 12. Courts in this District have applied due process limitations to prolonged
5 immigration detention, including detention under § 1225(b), where no adequate
6 bond hearing has been provided.

7 13. District courts across California, including this Court, have consistently enforced
8 these constitutional limits and have recognized that prolonged detention without
9 adequate procedural safeguards cannot stand and have granted habeas relief in
10 similar circumstances. In prior habeas matters, this Court has required respondents
11 to justify continued detention through a constitutionally sufficient process and has
12 ordered relief where such justification was absent.

13 14. Likewise, this Court has repeatedly granted habeas relief and ordered immediate
14 release where detention became unlawful: In *Haghani Hafezi v. LaRose*, No. 3:26-
15 cv-01398-CAB-JLB (S.D. Cal. Mar. 16, 2026), this Court granted a writ of habeas
16 corpus and ordered immediate release after concluding continued detention could
17 not be justified and removal was not reasonably foreseeable. In *Aliyev v. LaRose*,
18 No. 3:26-cv-01119-CAB-JLB (S.D. Cal. Mar. 12, 2026), the Court
19 likewise granted habeas relief and ordered immediate release, finding the petitioner
20 was in custody in violation of federal law and the Constitution. In *Benitez Oliva v.*
21 *Noem*, No. 3:26-cv-00493-CAB (S.D. Cal. Feb. 18, 2026), the Court
22 ordered immediate release and enjoined re-detention absent a pre-detention
23 hearing, emphasizing the need for constitutionally adequate process before
24 depriving liberty.

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26 15. Supreme Court precedent reinforces these principles. In *Zadvydas v. Davis*, 533
27 U.S. 678, 690–91 (2001), the Court held that civil detention violates due process
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1 when it becomes prolonged and no longer bears a reasonable relation to its purpose.
2 Where detention is untethered from its justification—particularly in the absence of
3 meaningful review—release is required.

4 16. Although *Jennings v. Rodriguez*, 583 U.S. 281 (2018), rejected certain statutory
5 interpretations, it expressly left open constitutional challenges to prolonged
6 detention. And while *Demore v. Kim*, 538 U.S. 510 (2003), upheld detention in
7 limited circumstances, it did so based on the premise of brief confinement and does
8 not authorize prolonged detention without individualized review.

9 17. Consistent with these authorities—including the prior rulings of this Court—where
10 a noncitizen has been subjected to prolonged detention without a constitutionally
11 adequate bond hearing and without evidence demonstrating necessity, the
12 appropriate remedies are immediate release or, at minimum, a prompt and
13 constitutionally compliant bond hearing.

14 18. This Court has repeatedly exercised its habeas authority to remedy unconstitutional
15 immigration detention, including in cases involving prolonged custody without
16 meaningful procedural safeguards.

17 18 **III. JURISDICTION EXISTS AND EXHAUSTION IS NOT REQUIRED**

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20 19. This Court has jurisdiction over Petitioner's constitutional claims under 28 U.S.C.
21 § 2241, which authorizes federal courts to review the legality of executive
22 detention. The writ of habeas corpus remains available to challenge unlawful
23 immigration detention, particularly where a petitioner alleges violations of due
24 process.

25
26 20. The Supreme Court has long recognized that habeas jurisdiction extends to
27 noncitizens challenging the legality of their detention. See *Zadvydas v. Davis*, 533
28 U.S. 678, 687 (2001) (confirming availability of habeas relief to challenge post-



1 removal-period detention); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003)
2 (recognizing habeas jurisdiction over immigration detention challenges).

3 **Exhaustion is not Required for Constitutional Challenges**

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5 21.Exhaustion of administrative remedies is not required where a petitioner raises
6 constitutional claims that the agency lacks authority to resolve. The Ninth Circuit
7 has consistently held that exhaustion is prudential, not jurisdictional, and does not
8 apply where it would be futile or inadequate.

9 22.In *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), the Ninth Circuit
10 confirmed that due process challenges to bond procedures are properly brought in
11 habeas and do not require exhaustion where the agency cannot provide the
12 requested relief. Similarly, in *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir.
13 2017), the court held that noncitizens may seek habeas relief to challenge
14 constitutionally deficient bond proceedings.

15 23.District courts across this Circuit have applied the same principle in prolonged
16 detention cases. Where the claim is that the process itself is unconstitutional,
17 requiring exhaustion would serve no purpose because the agency cannot cure the
18 constitutional defect.

19 **Exhaustion is Excused Where it Would be Futile or Inadequate**

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21 24.Even where exhaustion might otherwise apply, it is excused where administrative
22 remedies are inadequate or futile. See *Laing v. Ashcroft*, 370 F.3d 994, 1000–01
23 (9th Cir. 2004) (recognizing exceptions to exhaustion where remedies are
24 inadequate, futile, or where irreparable harm would result).

25 25.Here, exhaustion is futile because Petitioner challenges the legal sufficiency of the
26 bond hearing framework itself, not merely an individual decision. The Board of
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1 Immigration Appeals lacks authority to impose the constitutionally required burden
2 of proof or to restructure detention proceedings to conform to due process
3 requirements articulated in *Rodriguez-Diaz*.

4 26. Moreover, Petitioner faces ongoing and irreparable harm, including continued
5 unlawful detention and severe medical deterioration. Under such circumstances,
6 courts routinely excuse exhaustion.

7 **Courts in This District Routinely Exercise Jurisdiction Without Requiring**
8 **Exhaustion**

9 27. Courts in this District, including this Court, regularly exercise habeas jurisdiction
10 over immigration detention claims without requiring exhaustion, particularly where
11 constitutional violations are alleged.

12 28. Most importantly, in *Khav v. Noem*, No. 3:26-cv-01274-JO-MMP, this Court
13 granted Motion to Enforce Judgment based on inadequate bond hearing.

14 29. These cases reflect a consistent practice: where detention violates constitutional
15 standards, federal courts do not require prolonged administrative exhaustion before
16 granting relief.

17 30. Here, Petitioner's challenge is not to the outcome of a discretionary decision, but
18 to the constitutional adequacy of the process itself. Because the agency cannot
19 remedy these constitutional violations, exhaustion is not required.

20 31. Requiring Petitioner to pursue additional administrative remedies would only
21 prolong unlawful detention and exacerbate the ongoing harm he is suffering. Under
22 settled Supreme Court and Ninth Circuit precedent, this Court should exercise
23 jurisdiction and grant relief.

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25 **VI. CONCLUSION**

26 32. Wherefore, Petitioner respectfully requests this Court to grant the following:
27 Petitioner respectfully requests that this Court Issue a Writ of Habeas Corpus
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1 ordering Petitioner's immediate release; or In the alternative, order Respondents to
2 provide a bond hearing within 7 days; Require the Government to bear the burden
3 of proof by clear and convincing evidence; Declare Petitioner's detention
4 unconstitutional.

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6 DATED: May 28, 2026

Respectfully submitted

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10 Naira Zohrabyan
11 Attorney for Petitioner
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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this **PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO MOTION TO ENFORCE JUDGMENT**, using the CM/ECF system.

DATED: May 28, 2026

Respectfully submitted



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