

1 Alejandro Monsalve
2 CA SBN 324958
3 Alex Monsalve Law Firm, PC
4 240 Woodlawn Ave., Suite 9
5 Chula Vista, CA 91910
6 (619) 777-6796
7 Counsel for Petitioner

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 **ALASTIA ACHA,**
11 Petitioner

12 v.

13 **Christopher LAROSE,** Senior Warden, Otay
14 Mesa Detention Center;

15 **Markwayne MULLIN,** Secretary, U.S.
16 Department of Homeland Security;

17 **Todd LYONS,** Acting Director, U.S. Immigration
18 and Customs Enforcement;

19 **Todd BLANCHE,** Acting Attorney General of
20 the United States

21 Respondents.
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Case No.: '26CV2532 AGS JLB

Agency File No:



**PETITION FOR WRIT OF
HABEAS CORPUS AND
REQUEST FOR ORDER TO
SHOW CAUSE WITHIN THREE
DAYS**

INTRODUCTION

1. Petitioner, Alastia Acha , is a native and citizen of Cameroon who entered the United States without inspection on or about April 2, 2025. She was immediately taken into custody by U.S. immigration authorities and has remained continuously detained by Immigration and Customs Enforcement (“ICE”) at the Otay Mesa Detention Center since that time. Petitioner has now been detained for over one year.

2. Petitioner has never been afforded a bond hearing before a neutral adjudicator. The Immigration Court has determined that it lacks jurisdiction to conduct a custody redetermination under INA § 235(b), and as a result, no decisionmaker has ever evaluated whether Petitioner’s continued detention is necessary to serve any legitimate governmental purpose.

3. On December 12, 2025, the Immigration Judge denied Petitioner’s application for asylum and related relief. Petitioner timely appealed that decision to the Board of Immigration Appeals, where her case remains pending. While that appeal is adjudicated, Petitioner remains subject to mandatory detention with no defined endpoint. Her continued confinement is therefore not tied to any predictable timeline and may persist for many additional months.

4. Petitioner’s detention has now become unreasonably prolonged in violation of the Due Process Clause of the Fifth Amendment. Civil immigration detention is constitutionally permissible only insofar as it bears a reasonable relation to its limited purposes—ensuring appearance at proceedings and protecting the community. At this stage, however, Petitioner’s continued detention is no longer meaningfully connected to those purposes. Instead, it has become effectively indefinite, imposed without any individualized determination of necessity.

5. Federal courts, including courts within this District, have recognized that prolonged detention under INA § 235(b) without a bond hearing may violate due process. As detention extends beyond one year—particularly where proceedings remain ongoing and no endpoint is in sight—continued confinement without procedural safeguards becomes constitutionally impermissible.

1 6. Absent habeas relief, Petitioner faces continued detention for an indeterminate period
2 while exercising her statutory right to appeal. The Constitution does not permit such prolonged
3 deprivation of liberty without an individualized determination. Petitioner therefore respectfully
4 requests that this Court issue a writ of habeas corpus ordering Respondents to provide her with a
5 prompt bond hearing before an immigration judge, at which the Government bears the burden of
6 proving by clear and convincing evidence that continued detention is justified. In the alternative,
7 if such a hearing is not provided, Petitioner requests immediate release.

8 **JURISDICTION AND VENUE**

9 7. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the custody
10 of the Department of Homeland Security within this District and challenges the legality of that
11 custody.

12 8. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises
13 under the Constitution and laws of the United States, including the Immigration and Nationality
14 Act and the Due Process Clause of the Fifth Amendment.

15 9. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section
16 1252(g) bars only challenges to the Attorney General's discretionary decisions to "commence
17 proceedings, adjudicate cases, or execute removal orders," not independent challenges to
18 unlawful detention. See *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471,
19 482. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts of appeals, but
20 does not foreclose habeas review of detention claims, which are collateral to removal
21 proceedings.

22 10. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is
23 detained at the Otay Mesa Detention Center in San Diego County, California, which lies within
24 the jurisdiction of this Court.

PARTIES

11. Petitioner, Alastia Acha [REDACTED] is a native and citizen of Cameroon who is currently and continuously detained at the Otay Mesa Detention Center in San Diego, California.

12. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention Center.

13. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security (DHS).

14. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE).

15. Respondent Todd Blanche is the Acting Attorney General of the United States and the head of the U.S. Department of Justice (DOJ).

16. All Respondents are named in their official capacities.

FACTS

17. Petitioner, Alastia Acha [REDACTED] is a native and citizen of Cameroon who entered the United States without inspection on or about April 2, 2025, near the southern border.

18. Upon entry, Petitioner was immediately taken into custody by U.S. immigration authorities, referred for a credible fear determination, and subsequently transferred to the custody of Immigration and Customs Enforcement ("ICE") at the Otay Mesa Detention Center in San Diego County, California, where she has remained continuously detained since that time.

19. Following a positive credible fear determination, the Department of Homeland Security placed Petitioner in removal proceedings pursuant to INA § 240. Petitioner timely filed an application for asylum and withholding of removal based on her well-founded fear of persecution in Cameroon.

20. On December 12, 2025, the Immigration Judge denied Petitioner's application for asylum and related relief.

1 21. Petitioner timely appealed that decision to the Board of Immigration Appeals, where
2 her appeal remains pending.

3 22. At no point during her detention has Petitioner been afforded a bond hearing before a
4 neutral adjudicator.

5 23. When Petitioner sought a custody redetermination, the Immigration Judge denied
6 jurisdiction, concluding that Petitioner is subject to mandatory detention under INA § 235(b) and
7 that the Immigration Court lacks authority to conduct a bond hearing in her case.

8 24. As a result, Petitioner has been categorically denied any individualized determination
9 of whether her continued detention is necessary to serve any legitimate governmental purpose.

10 25. Petitioner has no criminal history whatsoever. She has never been charged with,
11 arrested for, or convicted of any crime in the United States or abroad.

12 26. Petitioner has now been detained for over one year without any opportunity to seek
13 release on bond.

14 27. Petitioner remains detained under a mandatory detention regime while her appeal is
15 pending, with no defined endpoint to her confinement.

16 28. The length of Petitioner's detention is the result of the ordinary course of immigration
17 proceedings, including adjudicatory delays inherent in the system, and not due to any dilatory
18 conduct on her part.

19 **REQUIREMENTS OF 28 U.S.C. § 2243**

20 29. The Court must grant the petition for writ of habeas corpus or issue an Order to Show
21 Cause ("OSC") to Respondents "forthwith," unless it appears from the petition that the petitioner
22 is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require
23 Respondents to file a return "within three days unless for good cause additional time, not
24 exceeding twenty days, is allowed." *Id.* (emphasis added).

25 30. Courts have long recognized the significance of the habeas statute in protecting
26 individuals from unlawful detention. As the Supreme Court explained, the Great Writ is "perhaps
27 the most important writ known to the constitutional law of England, affording as it does a swift
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1 and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S.
2 391, 400 (1963).

3 31. The statutory design makes clear that habeas corpus must remain a swift remedy.
4 “The statute itself directs courts to give petitions for habeas corpus ‘special, preferential
5 consideration to insure expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116,
6 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit has expressly cautioned
7 against undue delay that would frustrate the remedial purpose of habeas corpus, warning against
8 any action creating the perception “that courts are more concerned with efficient trial
9 management than with the vindication of constitutional rights.” *Id.* at 1121.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 32. For habeas claims, exhaustion of administrative remedies is prudential, not
12 jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988. A court may waive the prudential
13 exhaustion requirement where “administrative remedies are inadequate or not efficacious, pursuit
14 of administrative remedies would be a futile gesture, irreparable injury will result, or the
15 administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000).
16 Petitioner respectfully submits that exhaustion should be excused here because administrative
17 remedies are futile and because her continued detention results in irreparable harm.

18 33. Exhaustion here would be futile. When Petitioner sought custody redetermination, the
19 Immigration Judge denied jurisdiction, concluding that she is subject to mandatory detention
20 under INA § 235(b) and that the Immigration Court lacks authority to conduct a bond hearing in
21 her case. Immigration Judges in this district have consistently held that they lack authority to
22 conduct bond hearings for individuals placed in § 240 proceedings after establishing credible
23 fear. ICE likewise maintains that Petitioner is subject to mandatory detention and therefore
24 categorically ineligible for release absent parole, which the agency rarely grants. Accordingly,
25 any attempt to exhaust administrative remedies would serve no purpose and should be excused.

26 34. More importantly, every additional day Petitioner remains detained inflicts
27 irreparable harm that cannot be remedied after the fact. Her prolonged confinement causes
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1 significant psychological and emotional harm and increases vulnerability to institutional trauma.
2 Courts have recognized that such ongoing deprivation of liberty constitutes irreparable injury
3 warranting waiver of prudential exhaustion. See *De Paz Sales v. Barr*, No. 19-CV-07221-KAW,
4 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020).

5 **CLAIM FOR RELIEF**

6 **COUNT 1**

7 **Violation of the Due Process Clause of the Fifth Amendment**

8 35. Petitioner realleges and incorporates the preceding paragraphs as if fully set forth
9 herein.

10 36. The Fifth Amendment to the United States Constitution provides that “[n]o person
11 shall be deprived of life, liberty, or property, without due process of law.”

12 37. Freedom from physical restraint lies at the core of the liberty protected by the Due
13 Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690.

14 38. Civil immigration detention is constitutionally permissible only when reasonably
15 related to legitimate governmental objectives, such as ensuring appearance at proceedings or
16 protecting the community. Detention that becomes unreasonably prolonged without an
17 individualized determination of necessity violates due process.

18 39. Petitioner has now been detained for over one year without ever receiving a bond
19 hearing before a neutral adjudicator. At no point has any decisionmaker evaluated whether her
20 continued detention is necessary to serve any legitimate governmental purpose.

21 40. Following the denial of her application for relief, Petitioner timely appealed to the
22 Board of Immigration Appeals, where her case remains pending. During this appellate period,
23 Petitioner continues to be detained under a mandatory detention scheme with no defined
24 endpoint.

25 41. Petitioner’s continued detention is not the result of any dilatory conduct on her part,
26 but rather the ordinary course of immigration proceedings and adjudicatory delays inherent in the
27 system.

43. Courts in this District have found that detention under 8 U.S.C. § 1225(b) becomes constitutionally impermissible well before one year. In *Sarna v. LaRose*, No. 3:26-cv-00921-TWR-MSB (S.D. Cal. Mar. 5, 2026), the Court held that detention of 9.5 months without an individualized bond hearing was unreasonably prolonged and violated due process, ordering a bond hearing within fourteen days. Courts in this District have also repeatedly granted habeas relief under materially identical circumstances, ordering prompt bond hearings where detention under § 1225(b) became unreasonably prolonged. See, e.g., *Skapenko v. LaRose*, No. 26-cv-2168 (S.D. Cal. Apr. 15, 2026); *Faizi v. LaRose*, No. 25-cv-2974 (S.D. Cal. Nov. 13, 2025); *Sadeqi v. LaRose*, No. 25-cv-2587 (S.D. Cal. 2025). Here, Petitioner has been detained for over one year, far exceeding the period found constitutionally impermissible in *Sarna*.

44. The Government's failure to provide Petitioner with a bond hearing at which it bears the burden of proof by clear and convincing evidence violates the Due Process Clause of the Fifth Amendment.

COUNT 2

Violation of the Immigration and Nationality Act (INA)

45. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

46. The Immigration and Nationality Act authorizes detention under 8 U.S.C. § 1225(b) for the limited purpose of facilitating inspection and adjudication of an applicant's admissibility and claims for relief.

47. While the statute provides for mandatory detention in certain circumstances, it must be applied in a manner consistent with constitutional limitations. See *Jennings v. Rodriguez* (declining to impose statutory time limits while recognizing that constitutional challenges remain available).

1 48. As applied to Petitioner, continued detention for over one year without any
2 opportunity for individualized bond consideration exceeds the permissible scope of the statute's
3 purposes and raises serious constitutional concerns.

4 49. Where a statute is susceptible to more than one interpretation, courts must construe it
5 to avoid constitutional infirmities. See *Zadvydas v. Davis*.

6 50. Construed in a manner consistent with due process, § 1225(b) does not authorize
7 prolonged detention without an individualized determination of necessity.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner respectfully requests that this Court:

10 A) Assume jurisdiction over this matter;

11 B) Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this
12 District while these proceedings are pending;

13 C) Declare that Petitioner's continued detention without an individualized custody determination
14 violates the Immigration and Nationality Act and the Due Process Clause of the Fifth
15 Amendment;

16 D) Issue a writ of habeas corpus ordering Respondents to provide Petitioner with a prompt bond
17 hearing before an Immigration Judge, at which the Government bears the burden of proving by
18 clear and convincing evidence that Petitioner poses a flight risk or danger to the community, and
19 with authority to order release;

20 E) In the alternative, order Petitioner's immediate release if such a hearing is not provided within
21 a reasonable period of time;

22 F) Award Petitioner attorney's fees and costs, including under the Equal Access to Justice Act
23 ("EAJA"), 28 U.S.C. § 2412, to the extent applicable, and on any other basis authorized by law;

24 G) Grant such other and further relief as the Court deems just and proper.

25 Respectfully submitted,
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/s/ Alejandro J. Monsalve, Esq. CA SBN 324958

Alex Monsalve Law Firm, PC

240 Woodlawn Ave, Suite 9

Chula Vista, CA 91910

Phone: (619) 777-6796

Email: info@alexmonsalvelawfirm.com

Counsel for Petitioner

Dated: April 21, 2026

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am counsel for Petitioner in this action. The factual allegations contained in the Petition are based on information provided to me by Petitioner during a personal interview at the Otay Mesa Detention Center, as well as my review of certain immigration records, including the Notice to Appear and the Immigration Judge's custody redetermination order.

Based on those communications and records, and to the best of my knowledge, information, and belief, the factual statements in the Petition accurately reflect Petitioner's circumstances and the procedural history of her detention.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958

Alex Monsalve Law Firm, PC

240 Woodlawn Ave, Suite 9

Chula Vista, CA 91910

Phone: (619) 777-6796

Email: info@alexmonsalvelawfirm.com

Counsel for Petitioner

Dated: April 21, 2026