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

ALIAKSANDRA DANILCHYK,

Petitioner,

v.

MULLIN, et al.,

Case No.: 3:26-cv-02455-RSH-MMP



**TRAVERSE IN SUPPORT OF
PETITION FOR WRIT OF
HABEAS CORPUS**

I. INTRODUCTION

In its April 29, 2026 Minute Order, this Court expressly construed the Petition as alleging that Petitioner's mandatory detention since October 5, 2025 "*has become prolonged in violation of her due process rights.*" ECF No. 5. Respondent's supplemental response largely reasserts broad categorical arguments that this Court and other courts in this District have repeatedly declined to adopt. Numerous recent decisions from this District — including several from this Court — recognize that prolonged mandatory detention under 8 U.S.C. § 1225(b) remains subject to constitutional limitations and may violate due process absent meaningful individualized review.

1 Petitioner does not challenge the merits of the underlying removal proceedings, nor does
2 she seek review of any discretionary immigration determination. Rather, Petitioner challenges
3 the constitutionality of her continued mandatory civil detention without any individualized
4 custody review after many months of confinement under a categorical detention framework. The
5 Due Process Clause does not permit indefinite or unreasonably prolonged civil detention
6 untethered from meaningful procedural safeguards.

7 Respondent's supplemental response overreads *Jennings v. Rodriguez*, *Department of*
8 *Homeland Security v. Thuraissigiam*, and *Shaughnessy v. United States ex rel. Mezei*. Those
9 decisions did not eliminate constitutional limitations on prolonged immigration detention, nor
10 did they foreclose habeas review of detention claims collateral to removal proceedings. Indeed,
11 this Court and other courts within this District have repeatedly recognized that prolonged
12 detention under § 1225(b) may raise serious constitutional concerns notwithstanding the
13 mandatory language of the statute.

14 For the reasons set forth below, Petitioner respectfully requests that this Court grant the
15 Petition and order Respondent to provide Petitioner with a prompt individualized bond hearing
16 before a neutral adjudicator at which the government bears the burden of establishing danger or
17 flight risk by clear and convincing evidence.

18 **II. THIS COURT HAS ALREADY RECOGNIZED THE VIABILITY OF**
19 **PETITIONER'S PROLONGED DETENTION CLAIM**

20 Respondent's supplemental response largely revisits arguments directed at the form of
21 Petitioner's original Pro Se pleading rather than addressing the constitutional prolonged-
22 detention claim expressly identified by this Court in ECF No. 5. In its April 29, 2026 Minute
23 Order, this Court expressly construed the Petition as alleging that Petitioner's mandatory
24 detention since October 5, 2025 "*has become prolonged in violation of her due process rights.*"
25 ECF No. 5. That order clarified the operative constitutional issue presently before the Court and
26 confirmed that Petitioner's claim warrants substantive review.

1 Much of Respondent's original return focused on the dismissal of Petitioner's prior Pro
2 Se habeas petition, alleged pleading deficiencies, and Petitioner's reference to *Zadvydas v.*
3 *Davis*. See ECF No. 4. However, after reviewing the present Petition, this Court independently
4 identified and framed the constitutional question as whether Petitioner's continued mandatory
5 detention under 8 U.S.C. § 1225(b) has become unreasonably prolonged in violation of due
6 process. ECF No. 5.

7 Accordingly, the issue before the Court is not whether Petitioner's original Pro Se filing
8 cited the correct authorities with precision, but whether continued mandatory detention without
9 any individualized custody review may become constitutionally problematic under the
10 circumstances presented here. This Court has already recognized that such a claim is cognizable
11 and sufficiently substantial to require a response from Respondent addressing the constitutional
12 prolonged-detention issue directly. ECF No. 5.

13 Respondent's continued reliance on generalized assertions that arriving noncitizens
14 possess "no due process rights other than those afforded by statute" fails to address the actual
15 constitutional issue identified by this Court. As discussed below, numerous recent decisions from
16 this District — including several from this Court — recognize that prolonged mandatory
17 detention under § 1225(b) remains subject to constitutional limitations notwithstanding the
18 mandatory language of the statute.

19 **III. RECENT DECISIONS FROM THIS DISTRICT — INCLUDING THIS**
20 **COURT'S OWN DECISIONS — CONFIRM THAT PROLONGED**
21 **DETENTION UNDER § 1225(b) REMAINS SUBJECT TO**
22 **CONSTITUTIONAL LIMITS**

23 Respondent's supplemental response presents an overly broad interpretation of *Jennings*
24 *v. Rodriguez*, *Department of Homeland Security v. Thuraissigiam*, and *Shaughnessy v. United*
25 *States ex rel. Mezei* that is inconsistent with numerous recent decisions from this District
26 recognizing constitutional limitations on prolonged detention under 8 U.S.C. § 1225(b).

1 Courts within this District — including this Court — have repeatedly concluded that
2 although § 1225(b) mandates detention during removal proceedings, prolonged mandatory
3 detention without meaningful individualized review may nevertheless raise serious due process
4 concerns.

5 In *Sadeqi v. LaRose*, 809 F. Supp. 3d 1090 (S.D. Cal. 2025), this Court expressly
6 recognized that “prolonged mandatory detention pending removal proceedings, without a bond
7 hearing, will—at some point—violate the right to due process.” The Court rejected the
8 government’s broad argument that *Thuraissigiam* categorically foreclosed constitutional
9 challenges to prolonged detention under § 1225(b), explaining that detention claims remain
10 distinct from challenges to admission or removal determinations.

11 Likewise, in *Kunakbaeva v. Warden*, No. 26-cv-660-RSH-JLB, 2026 WL 628910 (S.D.
12 Cal. Mar. 2, 2026), this Court rejected arguments that 8 U.S.C. § 1252(g), *Mezei*, and
13 *Thuraissigiam* categorically barred habeas review of prolonged detention claims brought by
14 arriving noncitizens detained under § 1225(b). The Court recognized that constitutional
15 challenges to continued detention are collateral to removal proceedings and therefore remain
16 subject to habeas review notwithstanding the mandatory detention framework established by the
17 INA. The Court further recognized that *Thuraissigiam* did not eliminate all constitutional
18 constraints on prolonged civil immigration detention.

19 Similarly, in *Skapenko v. LaRose*, No. 26-cv-2168-RSH-DDL (S.D. Cal. Apr. 15, 2026),
20 this Court granted habeas relief and ordered an individualized bond hearing for a petitioner
21 detained under § 1225(b), with the government bearing the burden of proving danger or flight
22 risk by clear and convincing evidence. That decision confirms that prolonged detention
23 challenges under § 1225(b) remain viable notwithstanding the statute’s mandatory language.

24 Other courts within this District have reached similar conclusions. In *Faizi v. LaRose*,
25 No. 25-cv-02974-JO-MSB (S.D. Cal. Apr. 24, 2026), the court recognized that Jennings
26 addressed statutory interpretation rather than the constitutional limits of prolonged detention and
27 concluded that habeas jurisdiction remains available to review constitutional detention claims

1 collateral to removal proceedings. The court further recognized that prolonged mandatory
2 detention under § 1225(b) may require an individualized bond hearing consistent with due
3 process principles.

4 These decisions demonstrate that Petitioner's constitutional claim is neither novel nor
5 foreclosed by existing precedent. To the contrary, courts within this District have repeatedly
6 recognized that prolonged mandatory detention under § 1225(b) remains subject to constitutional
7 scrutiny notwithstanding the mandatory language of the statute. Respondent's supplemental
8 response largely ignores this growing body of authority and instead advances an absolutist
9 interpretation of *Jennings* and *Thuraissigiam* that courts within this District — including this
10 Court — have repeatedly declined to adopt.

11 **IV. RESPONDENT OVERREADS JENNINGS, THURAISSIGIAM,**
12 **AND MEZEI**

13 Respondent's supplemental response relies heavily on *Jennings v. Rodriguez*,
14 *Department of Homeland Security v. Thuraissigiam*, and *Shaughnessy v. United States ex rel.*
15 *Mezei* to argue that Petitioner possesses no constitutional protection against prolonged
16 mandatory detention under 8 U.S.C. § 1225(b). However, Respondent overreads those decisions
17 and extends them beyond their actual holdings.

18 First, *Jennings* addressed a question of statutory interpretation, not the constitutional
19 limits of prolonged detention. The Supreme Court held only that § 1225(b) does not itself contain
20 an implicit six-month bond hearing requirement. *Jennings v. Rodriguez*, 583 U.S. 281, 297–305
21 (2018). The Court expressly declined to resolve the constitutional questions raised by prolonged
22 mandatory detention and remanded those issues for further consideration. *Id.* at 314.
23 Accordingly, *Jennings* did not hold that prolonged detention under § 1225(b) is immune from
24 constitutional scrutiny, nor did it foreclose habeas review of due process challenges arising from
25 prolonged mandatory detention.

26 Second, Respondent similarly overstates the reach of *Department of Homeland Security*
27 *v. Thuraissigiam*, 591 U.S. 103 (2020). *Thuraissigiam* addressed the scope of habeas review
28

1 available to challenge expedited removal determinations and admission-related claims brought
2 by an arriving noncitizen apprehended shortly after unlawful entry. The case did not involve a
3 prolonged detention challenge and did not address whether mandatory detention under § 1225(b)
4 may become constitutionally problematic after many months of confinement without
5 individualized custody review.

6 As this Court and other courts within this District have recognized, constitutional
7 challenges to continued detention are distinct from challenges to admission or removal
8 determinations. See *Kunakbaeva v. Warden*, No. 26-cv-660-RSH-JLB, 2026 WL 628910, at *3–
9 6 (S.D. Cal. Mar. 2, 2026). Respondent’s attempt to transform Thuraissigiam into a categorical
10 bar against all constitutional prolonged-detention claims under § 1225(b) is inconsistent with the
11 numerous recent decisions from this District recognizing that prolonged mandatory detention
12 remains subject to constitutional limitations.

13 Third, Respondent’s reliance on *Mezei* is likewise misplaced. *Mezei* involved
14 extraordinary national security considerations and an individual detained on Ellis Island after
15 being excluded from entry on confidential national security grounds. *Shaughnessy v. United*
16 *States ex rel. Mezei*, 345 U.S. 206 (1953). The unique facts and national security context
17 underlying *Mezei* are not present here. Petitioner is not detained based on national security
18 concerns, has no criminal history, and has remained detained solely pursuant to the mandatory
19 detention framework of § 1225(b).

20 Moreover, subsequent Supreme Court and Ninth Circuit precedent recognize that civil
21 immigration detention remains subject to constitutional limitations notwithstanding Congress’s
22 broad authority over immigration matters. Freedom from physical restraint lies at the core of the
23 liberty protected by the Due Process Clause, and civil detention must remain reasonably related
24 to legitimate governmental purposes. Respondent’s supplemental response effectively asks this
25 Court to conclude that detention under § 1225(b) is entirely exempt from constitutional scrutiny
26 regardless of duration or circumstances. Courts within this District — including this Court —
27 have repeatedly declined to adopt such an absolutist position.

V. PETITIONER'S CONTINUED MANDATORY DETENTION WITHOUT
ANY INDIVIDUALIZED REVIEW
RAISES SERIOUS DUE PROCESS CONCERNS

Petitioner has remained continuously detained since October 5, 2025 under a mandatory detention framework that provides no meaningful opportunity for individualized custody review before a neutral adjudicator. During that time, Petitioner has received no bond hearing, no individualized assessment of danger or flight risk, and no opportunity to demonstrate that continued detention is unnecessary under the circumstances of her case.

Petitioner does not contend that detention automatically becomes unconstitutional after any fixed period of time. Rather, the constitutional concern arises from the continued imposition of mandatory civil detention without meaningful procedural safeguards as detention grows increasingly prolonged and untethered from individualized review. As numerous courts within this District have recognized, due process concerns intensify as mandatory detention continues for extended periods without a bond hearing or other meaningful custody determination.

Here, Petitioner remains detained under a categorical detention framework despite the absence of any individualized finding that she presents a danger to the community or a flight risk. Respondent's position effectively permits detention to continue for an indeterminate and potentially lengthy period throughout the pendency of removal proceedings without any neutral review whatsoever. Such a framework raises serious constitutional concerns because it subjects Petitioner to ongoing civil confinement without the procedural protections ordinarily associated with prolonged physical restraint.

Moreover, there remains no definite or identifiable endpoint to Petitioner's detention. Petitioner reserved appeal of the Immigration Judge's removal order, and her immigration proceedings remain ongoing. Thus, although Respondent characterizes Petitioner's current detention as routine and temporary, continued confinement may extend for many additional months while appellate proceedings remain pending. Respondent does not meaningfully dispute that Petitioner's detention may continue for a substantial additional period while administrative

1 appellate proceedings remain ongoing. Under these circumstances, the constitutional concerns
2 associated with prolonged mandatory detention continue to increase over time.

3 The Due Process Clause does not permit civil detention to remain entirely insulated from
4 individualized review regardless of duration or circumstances. As this Court has already
5 recognized, prolonged mandatory detention under § 1225(b) may at some point violate due
6 process absent meaningful procedural safeguards. Petitioner respectfully submits that continued
7 detention without any individualized custody determination now raises serious constitutional
8 concerns warranting habeas relief.

9 **VI. RELIEF REQUESTED**

10 For the foregoing reasons, Petitioner respectfully requests that this Court grant the
11 Petition for Writ of Habeas Corpus and order Respondent to provide Petitioner with a prompt
12 individualized bond hearing before a neutral adjudicator within a reasonable period of time to be
13 set by the Court.

14 Petitioner further requests that the Court order that, at such hearing, the government bear
15 the burden of establishing by clear and convincing evidence that Petitioner presents either a
16 danger to the community or a risk of flight sufficient to justify continued detention. Petitioner
17 also respectfully requests that the adjudicator consider alternatives to detention and any
18 conditions of supervision reasonably available to ensure appearance at future proceedings.

19 In the alternative, should Respondent fail to provide a constitutionally adequate bond
20 hearing within the time prescribed by the Court, Petitioner respectfully requests immediate
21 release under appropriate conditions of supervision pending completion of removal proceedings.

22 Petitioner further requests such other and further relief as this Court deems just and
23 proper.

24 **VII. CONCLUSION**

25 For the reasons set forth above, Petitioner respectfully requests that this Court grant the
26 Petition for Writ of Habeas Corpus and order Respondent to provide Petitioner with a prompt
27 individualized bond hearing before a neutral adjudicator at which the government bears the

1 burden of establishing danger or flight risk by clear and convincing evidence. In the alternative,
2 Petitioner respectfully requests such further relief as the Court deems just and proper, including
3 release under appropriate conditions of supervision should a constitutionally adequate custody
4 hearing not be timely provided.

5 Respectfully Submitted.

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12 Dated: May 9, 2026