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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LAFORTUNE B TANYIE ANGEL,

Petitioner,

v.

CHRISTOPHER LAROSE, Senior Warden at Otay Mesa Detention Center,

Respondents.

Case No.: 26-cv-3090-CAB-GC

TRAVERSE IN SUPPORT OF PETITION FOR HABEAS CORPUS

ARGUMENT

I. 8 U.S.C. § 1252(g) does not bar consideration of constitutional claims.

Respondent argues that this Court's jurisdiction to consider immigration habeas petitions under 8 U.S.C. § 2241 is taken away by 8 U.S.C. § 1252(g). This argument is "mistaken." *Hernandez Cruz v. Noem*, No. 25-cv-2566-SB-MAA, 2025 WL 3482630, *1 (C.D. Cal. Dec. 2, 2025).

As the Supreme Court and the Ninth Circuit have both recently clarified, courts "should read § 1252(g) narrowly." *Ibarra-Perez v. United States*, 154 F.4th 989, 991 (9th Cir. 2025) (citing *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)). That section's jurisdiction-stripping provisions are limited to "three discrete actions": the "decision or action to *commence* proceedings, *adjudicate* cases, or *execute* removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (quoting 8 U.S.C. § 1252(g)). They do not strip jurisdiction and "sweep in any claim that can technically be said to 'arise from' the three listed actions of the Attorney General. Instead, [the Court] read[s] the language to refer to just those three specific actions themselves." *Jennings v. Rodriguez*, 538 U.S. 281, 294 (2018).

As a result, this Court still has jurisdiction over Tanyie Angel's claim. Like many other habeas petitioners in immigration detention, Tanyie Angel "is seeking to review the legality of [her] detention, arguing that the length of time he has been detained here violates due process—rather than challenging the decision to commence proceedings, the adjudication of his removal case, or an action to execute his removal order." *Gao v. LaRose*, 805 F. Supp. 3d. 1106, 1109 (S.D. Cal. 2025) (Huie, J.) (finding jurisdiction over § 2241 habeas petition in a prolonged detention case for an arriving noncitizen and ordering an individualized bond hearing). This Court's jurisdiction is "not barred by Section 1252(g)." *Id.*; *accord, e.g.*, *Khorsheed v. LaRose*, No. 25-cv-3346-BTM-KSC, 2025 WL

3638141, *1 (S.D. Cal. Dec. 15, 2025) (same).

II. Tanyie Angel is not subject to mandatory detention without due process.

Respondent errs in its assertion that Tanyie Rose's request for relief is barred by Supreme Court precedent. It cites to the portion of *Jennings v. Rodriguez* that holds that detainees held under § 1225(b) are not entitled to bond hearings or any "limit on the length of detention" *pursuant to the statute itself.* 583 U.S. 281, 297 (2018). But *Jennings* does not hold that noncitizens have zero right to a bond hearing under *the United States Constitution*. Instead, the *Jennings* Court specifically decided to "not reach those [constitutional] arguments." *Id.* at 312.

In fact, Supreme Court precedent, as well as decisions from the Southern District of California and district courts throughout the country, supports a finding that the Due Process Clause prevents the government from indefinitely detaining immigrants under § 1225(b). The Supreme Court has directly opposed Respondent's proposition in *Zadvydas v. Davis*, stating that a "statute permitting indefinite detention of an alien would raise a serious constitutional problem," as the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. 533 U.S. 678 (2001). 533 U.S. 678, 690 (2001). Respondent further fails to cite a single case within the Ninth Circuit that supports its argument that arriving noncitizens have no due process rights when it comes to prolonged imprisonment under § 1225(b).[1]

Respondent fails to directly address most of the cases cited by Tanyie Rose in her brief, including the published Southern District of California opinion in

[1] Further, it is incorrect that the government has no discretion under the law to provide a bond hearing to Tanyie Rose. Several courts have held that even if a noncitizen is eligible to be placed in expedited removal, the government can instead place her in regular removal proceedings and detain her under § 1226(a). *Flores v. Barr*, 934 F.3d 910, 916–17 (9th Cir. 2019) ("The government has discretion to place noncitizens in standard removal proceedings even if the expedited removal statute could be applied to them . . . [which would avoid] any mandatory detention allegedly required for expedited removal."); *Al-Sadeai v. ICE*, 540 F. Supp. 3d 983, 986 (S.D. Cal. 2021) (noting that ICE "determined that Plaintiff would be detained pursuant to § 1226(a)" after he was placed in expedited removal, given a positive

Kydyrali v. Wolf, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) (Battaglia, J.). It cites to only two cases from the Southern District to support its position, while Tanyie Rose cites to six (including *Kydyrali*). *See Mardian v. Mayorkas*, No. 25-cv-3467-JLS, 2026 WL 92064, at *2 (S.D. Cal. Jan. 13, 2026); *Cong v. Noem*, No. 25-cv-3730-GPC-DEB, 2026 WL 76566, at *3 (S.D. Cal. Jan. 9, 2026); *Raeva v. Mayorkas*, 25-cv-3175-JO, ECF No. 17 (S.D. Cal. Nov. 24, 2025); *Abdul Kadir v. Larose*, No. 25-cv-1045-LL-MMP, 2025 WL 2770633, at *4 (S.D. Cal. Oct. 15, 2025); *Gao v. LaRose*, No. 25-cv-2084-RSH-SBC, 2025 WL 2770633, at *3 (S.D. Cal. Sept. 26, 2025).

Respondent instead relies heavily on two cases that do not stand for the proposition that mandatory detention of noncitizens pursuant to § 1225(b) is not subject to constitutional limits of due process. (ECF No. 10, at 6–7 (citing *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 207–09 (1953)). *Thuraissigiam* did not involve a challenge to prolonged detention, and is thus inapposite here. Instead, the habeas petitioner in that case sought judicial review of his credible fear proceedings. The Court held that an arriving noncitizen "has only those rights regarding admission that Congress has provided by statute," but it said nothing about a noncitizen's right to a bond hearing. 591 U.S. at 140. And *Mezei*, a case from over 70 years ago, involves an entirely different statutory scheme than what currently exists. Further, the noncitizen in that case was in an entirely different posture than Tanyie Rose: he was excluded from the United States before entry, he

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credible fear determination, and transferred to removal proceedings); *Singh v. Barr*, 400 F. Supp. 3d 1005, 1009 (S.D. Cal. 2019) (involving noncitizen processed for expedited removal, but detained under § 1226(a) and given a bond hearing). But regardless of the government's ability to detain Tanyie Rose pursuant to either § 1226(a) or (b), her prolonged mandatory detention remains unreasonable and she should be given a bond hearing.

had a final order of removal, and he was deemed a danger to national security. 345 U.S. at 213–16. Thus, that case does not control here.

III. Tanyie Rose has established that her continued mandatory detention has become unreasonable.

Finally, Respondent is incorrect that Tanyie Rose has not been detained without bond for a sufficiently prolonged period of time to prevail. It cites to several cases that found a due process violation where noncitizens were detained longer than one year. But it would be a logical fallacy to imply that, therefore, detention without process for under one year must constitutional. None of those cases establish that custody of nine months is insufficient, only that prolonged custody is unreasonable.

Respondent fails to address the cases presented by Tanyie Rose in which courts found as due process violation in less than a year, and even less than nine months. "Courts have found detention over seven months without a bond hearing weighs toward a finding that it is unreasonable." *Amado v. United States Dep't of Just.*, No. 25-cv-2687-LL-DDL, 2025 WL 3079052, at *5 (S.D. Cal. Nov. 4, 2025); *see also Rodriguez v. Nielsen*, No. 18-cv-04187-TSH, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7, 2019) (noting that many courts have required bond hearings for all cases in which a noncitizen is held for six months or longer). Respondent citers to *Sadeqi v. LaRose*, No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at *3 (S.D. Cal. Nov. 12, 2025), but a closer look at the language in that case demonstrates that it does not create any type of rule about a minimum detention length. Rather, the district court there stated only that "the length of Petitioner's detention to date—almost 12 months—*does not by itself, without more, establish prolonged detention* in violation of due process." *Id.* (emphasis added).

Here, Tanyie Rose does not rely *solely* on the length of her detention. Rather, she established that *Banda* factors (and other similar balancing tests for due process) weigh in favor of her immediate release. *See Banda v. McAleenan*, 385 F.

Supp. 3d 1099, 1111 (W.D. Wash. 2019). She has also shown that she will likely face lengthy indeterminate detention, has created no delays in her own removal proceedings, and faces conditions of confinement that are "indistinguishable from penal confinement," *Kydyrali*, 499 F. Supp. 3d at 773, despite the fact that she has no criminal history and is in fact fleeing severe torture and persecution in her home country. Respondent argues that she cannot succeed because the amount of time she will spend in future custody is "purely speculative," but that is indeed the situation in the vast majority of these cases. Courts frequently grant habeas petitions where there is *a strong likelihood* of lengthy detention. *See Banda*, 385 F. Supp. 3d at 1119 ("This [appeal] process *may* take up to two years or longer.") (emphasis added); *Abdul Kadir v. Larose*, No. 25-cv-1045-LL-MMP, 2025 WL 2932654, at *5 (S.D. Cal. Oct. 15, 2025) ("Petitioner's future detention *can* last several more months or even years [during the adjudication of her case],") (emphasis added). It is rare to have a habeas case where there is a specific scheduled future removal date with which to calculate future detention with perfect accuracy. The government fails to cite to any precedent suggesting that a "speculative" estimate of future detention cannot satisfy the *Banda* test or any other applicable due process analysis.

CONCLUSION

For the reasons stated above, Tanyie Rose respectfully requests that this Court grant her petition and order her immediate release (or, alternatively, provide

her with a bond hearing or order a bond hearing before an IJ with safeguards to ensure neutrality).

Respectfully submitted,

Dated: July 14, 2026

s/ Alana L. McMains
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