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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO

B.D.[1],
Petitioner,

v.

Todd Blanche, Acting Attorney General of the United States, Department of Justice;

Markwayne Mullin, Secretary of Homeland Security;

Todd Lyons, Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;

Patrick Divver, Field Office Director of the San Diego Immigration and Customs Enforcement Office;

Jorge Velarde, Assistant Field Office Director of the Immigration and Customs Enforcement, Otay Mesa Detention Center;

Christopher J. LaRose; Senior Warden, Otay Mesa Detention Center;
Respondents.

Case No. '26CV3873 LEK DDL

Agency No. [redacted]

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN FEDERAL CUSTODY UNDER 28 U.S.C. § 2241 AND ORDER TO SHOW CAUSE

[1] Petitioner requests this petition move forward under this pseudonym and separately files a motion in that regard.

INTRODUCTION

1. Petitioner, B.D. ([redacted] (hereinafter "Petitioner"), an asylum seeker from Cameroon alleges he has experienced prolonged detention in violation of his due process rights. Additionally, he requests this court make an order to show cause and that he may not be transferred during the pendency of this petition.

2. Petitioner prefers not to file a temporary restraining order given the clear legal precedent in this case substantiating Petitioner's claims, and would instead request Respondents be required to provide a response within three days or alternatively timing pursuant to Chief Judge Order No. 144. Depending on any health issues that may arise during this petition, a restraining order may become necessary.

JURISDICTION

3. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

5. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

6. The provisions in 8 U.S.C. §§ 1252(g) and 1252(b)(9) do not strip this Court of

jurisdiction. Petitioner is not contesting the commencement or adjudication of removal proceedings against him, nor is he raising an issue with respect to the execution of removal. Petitioner does challenge his prolonged detention and adequate access to healthcare while detained. The petition is independent of the removal proceedings and all questions related to the commencement of removal proceedings or any part of the removal process. "[C]laims that are independent of or collateral to the removal process do not fall within the scope of § 1252(b)(9)." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016). Additionally, Section 1252(g) "does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders." *Ibarra-Perez v. United States*, 154 F.4th 989, 997 (9th Cir. 2025). Thus, this Court is not stripped of jurisdiction by Sections 1252(g) and 1252(b)(9).

VENUE

7. Venue is proper because Petitioner is detained at the Otay Mesa Detention Center ("OMDC") in the County of San Diego, which is within the jurisdiction of this District. Further, a substantial part of the events or omissions giving rise to his claims occurred in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for writ of habeas corpus or issue an order to

show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

Petitioner

10. Petitioner, B.D., is a Cameroonian national who is in custody at OMDC, located at 7488 Calzada De La Fuente, San Diego, CA 92154. He is in the custody, and under the direct control, of Respondents and their agents.

Respondents

11. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, they have the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"),

which administers the immigration courts and the Board of Immigration Appeals. Respondent U.S. Attorney General is a legal custodian of Petitioner.

12. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the DHS. In this capacity, Respondent Secretary is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement ("ICE"), the component agency responsible for Petitioner's detention and custody. Respondent Secretary is a legal custodian of Petitioner.

13. Respondent Todd Lyons is sued in his official capacity as the Senior Official Performing the Duties of the Director ICE. Respondent Lyons is the legal custodian of Petitioner.

14. Respondent Patrick Divver is sued in his official capacity as the Field Office Director of the San Diego ICE Office. Respondent Divver is a legal custodian of Petitioner and has authority to release him.

15. Respondent Jorge Velarde is sued in his official capacity as Assistant Field Office Director of the ICE at the Otay Mesa Detention Center. Respondent Velarde is a legal custodian of Petitioner and has direct authority to release him.

16. Respondent Christopher J. LaRose is sued in his official capacity as the Senior Warden, Otay Mesa Detention Center. Respondent LaRose is the direct physical custodian of Petitioner and has direct authority to release him.

STATEMENT OF FACTS

17. The following facts were ascertained from Counsel's review of Petitioner's records in his removal proceedings.

18. Petitioner is a 25-year-old Cameroonian who came to the United States on May 21, 2025, seeking protection after being arbitrarily detained and tortured in his home country. He entered the United States by crossing the U.S.-Mexico border at an undesignated location. U.S. immigration officers apprehended shortly after his entry.

19. As legally required given the torture he suffered in the past, on July 28, 2025, a U.S. Citizenship and Immigration Services Asylum Officer found Petitioner to have a credible fear of return to Cameroon. Consequently, the Department of Homeland Security ("DHS") issued Petitioner a Notice to Appear in removal proceedings, charging him as removable pursuant to 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i).

20. Petitioner retained Attorney Okon Jaco Udondom (hereinafter "Attorney Udondom") to represent him in removal proceedings.

21. On April 27, 2026, an immigration judge granted DHS's motion to pretermit Petitioner's application for asylum and order him removed to Uganda as a part of the Asylum Cooperative Agreements. *See* 90 FR 42597, *Agreement Between the Government of the United States of America and the Government of the Republic*

of Uganda for Cooperation in the Examination of Protection Requests. Petitioner, with the assistance of Attorney Udondom, timely filed an appeal with the Board of Immigration Appeals, which remains pending.

22. Petitioner has some family ties to the United States. Petitioner's father is also in the United States seeking asylum on a similar basis. Additionally, he has a cousin in the United States who is a lawful permanent resident who intends on sponsoring him when he is released from custody.

23. Petitioner claims to have no criminal record anywhere in the world and none seems to have been alleged by DHS in his removal proceedings.

24. As of today, Petitioner has been in DHS custody for ten months with no reasonably foreseeable removal to any country. The Supreme Court in *Zadvydas* made clear that due process is violated where civil detention is no longer related to its purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Far from authorizing indefinite detention, *Zadvydas* establishes a presumption of release once removal is not reasonably foreseeable. Under this well-established Supreme Court precedent, the government's authority to detain noncitizens is limited in the absence of a significant likelihood of removal in the reasonably foreseeable future. *Id.* Because that likelihood is nonexistent, Petitioner's continued detention is not only unauthorized, but unconstitutional. This Court should grant habeas relief and order his immediate release. In the alternative, Petitioner deserves a bond hearing

where the government bears the burden to prove by clear and convincing evidence that Petition is a flight risk or danger to the community.

LEGAL FRAMEWORK

25. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas* 533 U.S. at 693). These rights include procedural due process rights.

26. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. at 690.

27. The INA provides for mandatory detention of noncitizens subjected to an expedited removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2). Petitioner is detained pursuant to 8 U.S.C. § 1226(a), despite Respondents assertion he is detained pursuant to § 1225(b)(2). Nevertheless, substantive due process prohibits civil

detention that is punitive in purpose or in effect, including civil detention that is excessively prolonged in relation to its purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Put otherwise, "due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed"; otherwise, their commitment amounts to punishment. *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (quoting *Jackson*, 406 U.S. at 738).

28. Even when the Constitution permits confinement that is brief, the Supreme Court has recognized that such confinement becomes punitive when it is "excessively prolonged." *United States v. Salerno*, 481 U.S. 739, 474 n.4 (1987). Moreover, as a detained person's time in custody increases, so too does their liberty interest. *See Zadvydas*, 533 U.S. at 691. "[F]or detention to remain reasonable," greater justification is needed "as the period of confinement grows." *Id.*

29. Accordingly, "at some point, regardless of the risks, due process will require that [a person subject to prolonged civil confinement] be released." *United States. v. Torres*, 995 F.3d 695, 709–10 (9th Cir. 2021) (noting that federal government had conceded this point); see also *United States v. Briggs*, 697 F.3d 98, 103 (2d Cir. 2012) (stating that "for every set of circumstances, due process does impose some limit" on civil confinement).

30. "There has been a dearth of guidance regarding the point at which an immigration detainee's continued mandatory detention becomes unconstitutional," and thus challenges to prolonged immigration detention remain. *Abduraimov v. Andrews*, 2025 U.S. Dist. LEXIS, *9 (E.D. Cal. Oct. 14, 2025) (citing *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1203 (9th Cir. 2002)). The Ninth Circuit has expressed "grave doubts that any statute that allows for arbitrary prolonged detention without any due process is constitutional…" *Rodriguez v. Marin*, 909 F.3d 252, 255 (9th Cir. 2018).

31. Noncitizens detained under § 1225(b) for a prolonged period without an individualized bond hearing may assert a constitutional right to due process. *See Sadeqi v. LaRose*, No. 25-CV-2587-RSH-BJW, 2025 WL 3154520, at *2 (S.D. Cal. Nov. 12, 2025) ("This Court agrees with the majority position that a petitioner detained under Section 1225(b)(1) may assert a due process challenge to prolonged mandatory detention without a bond hearing."); *Maksin v. Warden, Golden State Annex*, No. 1:25-CV-00955-SKO (HC), 2025 WL 2879328, at *3 (E.D. Cal. Oct. 9, 2025) ("Several courts including the Third, Sixth, and Ninth Circuit, as well as numerous district courts, have found that unreasonably long detention periods may violate the due process clause." (collecting cases)); *Abdul-Samed v. Warden of Golden State Annex Det. Facility*, No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343, at *6 (E.D. Cal. July 25, 2025) ("[E]ssentially all district

courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, 'will—at some point—violate the right to due process.'" (quoting *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 2019 WL 5968089, at *6 (W.D. Wash. May 23, 2019), *report and recommendation adopted*, No. 18-CV-01669-RAJ, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019))); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) ("[T]he Court joins the majority of courts across the country in concluding that an unreasonably prolonged detention under 8 U.S.C. § 1225(b) without an individualized bond hearing violates due process."); *Banda v. McAleenan,* 385 F. Supp. 3d 1099, 1116-17 (W.D. Wash. 2019).

32. The procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards. The Ninth Circuit has "regularly applied *Mathews* to due process challenges to removal proceedings." *Rodriguez Diaz*, 53 F.4th at 1193 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Under the *Mathews* test, this Court must weigh: (1) the private interested affected; (2) the risk of erroneous deprivation and probable value of procedural safeguards; and (3) the government's interest. 424 U.S. at 335.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of Fifth Amendment – Substantive Due Process

33. Petitioner incorporates by reference the factual allegations set forth in the preceding paragraphs.

34. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

35. Due process prohibits the government from punishing people through civil detention. Civil detention becomes punitive when its duration or nature is unreasonable relative to the purpose for which the individual is detained—in this case, effectuating removal and safeguarding the community.

36. Petitioner's prolonged detention for over 303 days without a bond hearing violates due process.

SECOND CLAIM FOR RELIEF
Violation of Fifth Amendment – Procedural Due Process

37. Petitioner incorporates by reference the factual allegations set forth in the preceding paragraphs.

38. Petitioner has a fundamental private interest to be free from detention. *See Abduraimov*, U.S. Dist. LEXIS 202711, at *17 (citing *Zadvydas*, 533 U.S. at 690)); *see also Hernandez*, 872 F.3d at 993 (quoting *Foucha v. Louisiana*, 504

U.S. 71, 80 (1992)) and *Rodriguez Diaz*, 53 F.4th at 1207 (quoting *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011)).

39. Because Petitioner has received no procedural protections and the statute under which DHS alleges he is detained denies him procedural protections, the risk of erroneous deprivation of his liberty interest is high. *See Abduraimov*, 2025 U.S. Dist. LEXIS 202711, at *19; *see also Garcia v. Mattos*, 2026 U.S. Dist. LEXIS 6874, at *12 (D. Nev. Jan. 14, 2026) ("The risk of erroneous deprivation is extraordinarily high where ICE and DHS agency officials have sole, unguided, and unreviewable discretion to detain Petitioner without any individualized showing of why his detention is warranted, nor any process for Petitioner to challenge the exercise of that discretion.").

40. Finally, the government has no legitimate interest in Petitioner's prolonged detention without a bond hearing. *See Abduraimov*, 2025 U.S. Dist. LEXIS 202711, at *20; *see also Zagal-Alcaraz v. ICE Field Office Dir.*, 2020 U.S. Dist. LEXIS 64994, at *18-19 (D. Or. Mar. 25, 2020) (clarifying that "[t]he government interest at stake here is not the continued detention of Petitioner, but the government's ability to detain him without a bond hearing) (citation omitted).

41. For these reasons, Petitioner's prolonged detention violates the Due Process Clause of the Fifth Amendment and he should be immediately released or be

provided with a bond hearing within 7 days where the government has the burden to show that Petitioner presents a risk of flight or danger to the community.

THIRD CLAIM FOR RELIEF
Detention under INA § 1226

42. Petitioner incorporates by reference the factual allegations set forth in the preceding paragraphs.

43. In an alternative claim for relief, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a). The immigration courts have been instructed to follow the decision in *Matter of Yajure Hurtado*, an administrative decision that goes against longstanding law defining who is eligible for a bond hearing. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (holding a person who enters the United States without inspection is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A)). On this basis, Petitioner was denied bond by an Immigration Judge.

44. Petitioner was not "seeking admission" at the time of her entry to the United States, so his detention is governed by section 1226(a). *See, e.g.*, *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 302025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025);

Esquivel-Ipina v. LaRose, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 225); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

45. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA. Given the length at which Petitioner has been detained, the burden has shifted so that now DHS must prove by clear and convincing evidence that Petitioner is a danger or flight risk. *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011). *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 n.4 (expressly declining to abrogate *Singh*); *Rodriguez Diaz v. Garland*, 83 F.4th 1177, 1179 (9th Cir. 2023) (Paez, J., dissenting from denial of rehearing en

banc) ("Singh's constitutional holding ... remains binding law of our court."). *See also Aleman Gonzalez v. Barr*, 955 F.3d 762, 781 (9th Cir. 2020), rev'd on other grounds, 142 S. Ct. 2057 (2022) (holding that *Singh*'s burden-of-proof rule was a constitutional due process holding that survives the Supreme Court's statutory interpretation holding in *Jennings v. Rodriguez*, 583 U.S. 281 (2018)).

PRAYER FOR RELIEF

1. Assume jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside of the Southern District of California while this petition is pending;
3. Declare that Petitioner's ongoing prolonged detention is unlawful and violates the Due Process Clause of the Fifth Amendment;
4. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody or ,in the alternative, order Respondents to provide him a bond hearing within 7 days where the government must prove by clear and convincing evidence that Petitioner is a flight risk or danger to the community;
5. Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted;

6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

7. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

Dated: July 6, 2026

/s/ *Leah L. Chavarria*
Leah L. Chavarria
Counsel for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner and submit this verification on his behalf. I hereby verify under penalty of perjury under the laws of the United States and the State of California that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 6th day of July, 2026.

/s/ *Leah L. Chavarria*
Leah L. Chavarria
Counsel for Petitioner