

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
CALIFORNIA

Dmitrii Markov v. Christopher J. Larose, Field Office Director, U.S.  
Immigration and Customs Enforcement, San Diego Field Office, et al.

Markov · No. 25-CV-3811 JLS (SBC) · Decided January 13, 2026

SUMMARY

The United States District Court for the Southern District of California denied Dmitrii Markov’s 28 U.S.C. § 2241 petition challenging his prolonged immigration detention without a bond hearing. The court held that 8 U.S.C. § 1252(g) did not bar jurisdiction over his due process claim, but concluded that the length of detention, without more, did not establish an unreasonable detention or a significant likelihood that removal would not occur in the reasonably foreseeable future. The petition was denied with leave to amend within 21 days.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of California                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Janis L. Sammartino                                                                                                                                                                                                                                                                                                 |
| JURISDICTION          | United States District Court for the Southern District of California                                                                                                                                                                                                                                                |
| DECIDED               | January 13, 2026                                                                                                                                                                                                                                                                                                    |
| DOCKET                | 25-CV-3811 JLS (SBC)                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging prolonged immigration detention without a bond hearing.                                                                                                                                                                                     |
| STANDARD OF REVIEW    | The court evaluated whether it had habeas jurisdiction and whether Petitioner's detention had become unreasonably prolonged in violation of due process. The court considered the total length of detention, the likely duration of future detention, and delays attributable to the petitioner and the government. |
| PRECEDENTIAL VALUE    | Unknown; federal district court order with no reporter citation.                                                                                                                                                                                                                                                    |
| PARTIES               | Dmitrii Markov v. Christopher J. Larose, Field Office Director, U.S. Immigration and Customs Enforcement, San Diego Field Office, Kristi Noem, Secretary of the U.S. Department of Homeland Security, Pamela Bondi, Attorney General of the United States, et al.                                                   |

## TOPICS

immigration detention

federal habeas corpus

removal proceedings

procedural due process

subject matter jurisdiction

## PRACTICE AREAS

immigration

federal habeas corpus

constitutional law

civil procedure

## QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252(g) deprived the district court of jurisdiction over a habeas petition challenging prolonged immigration detention without a bond hearing.
2. Whether Petitioner's detention under 8 U.S.C. § 1225 had become unreasonably prolonged and therefore violated due process.

## HOLDINGS

1. Section 1252(g) did not strip the district court of jurisdiction because Petitioner challenged prolonged detention and the denial of a bond hearing, not the decision to commence removal proceedings, adjudicate his case, or execute a removal order.
2. Petitioner failed to establish that his detention was unreasonably prolonged or that there was good reason to believe there was no significant likelihood of removal in the reasonably foreseeable future; the length of detention, without more, did not render the detention unreasonable.

## KEY QUOTATIONS

*“Section 1252(g) should be read “narrowly” as to apply “only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders.’”” (opinion at 2)*

*“The Court finds Petitioner has not established that his detention is unreasonably prolonged based on delay or that there is “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.”” (opinion at 3)*

## FACTUAL BACKGROUND

Dmitrii Markov, a Russian national, entered the United States through the CBP One program on January 13, 2024, and was thereafter detained by ICE and placed in removal proceedings as an applicant for admission. An Immigration Judge denied his request for a bond hearing on jurisdictional grounds, and Markov remained detained without a bond hearing. He alleged that his prolonged detention violated the Immigration and Nationality Act and the Fifth Amendment Due Process Clause, while also asserting that his merits hearing had been postponed five times because of the government.

## PROCEDURAL HISTORY

Petitioner filed a § 2241 habeas petition challenging his detention by ICE without a bond hearing. Respondents filed an opposition, and Petitioner filed a traverse. The district court denied the petition, with leave to amend within twenty-one days.

**DISPOSITION**

dismissed

**REMAND INSTRUCTIONS**

Petitioner may file an amended petition within twenty-one days of entry of the order.

**CASES CITED**

- Alvarez–Barajas v. Gonzales, 418 F.3d 1050, 1052 (9th Cir. 2005)
- Nadarajah v. Gonzales, 443 F.3d 1069, 1076 (9th Cir. 2006)
- Jennings v. Rodriguez, 138 S. Ct. 830 (2018)
- Alvarez v. Sessions, 338 F. Supp. 3d 1042, 1048–49 (N.D. Cal. 2018)
- Ibarra-Perez v. United States, No. 24-631, 2025 WL 2461663, at \*6–7 (9th Cir. Aug. 27, 2025)
- Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471, 482, 487 (1999)
- Walters v. Reno, 145 F.3d 1032, 1052–53 (9th Cir. 1998)
- Garcia v. Noem, No. 25-CV-2180-DMS-MMP, 2025 WL 2549431, at \*4 (S.D. Cal. Sept. 3, 2025)
- Singh v. Barr, 400 F. Supp. 3d 1005 (S.D. Cal. 2019)
- Lopez v. Garland, 631 F. Supp. 3d 870, 879–80 (E.D. Cal. 2022)
- Zadvydas v. Davis, 533 U.S. 678, 701 (2001)

**OPINION**

Markov

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10

11 DMITRII MARKOV, Case No.: 25-CV-3811 JLS (SBC)

12 Petitioner,

ORDER DENYING PETITION FOR

13 v. WRIT OF HABEAS CORPUS

14 CHRISTOPHER J. LAROSE, Field (ECF No. 1) Office Director, U.S. Immigration and 15  
Customs Enforcement, San Diego Field 16 Office, et al., 17 Respondents. 18 19 Presently before  
the Court is Dmitrii Markov’s Petition for Writ of Habeas Corpus 20 pursuant to 28 U.S.C. § 2241  
 (“Pet.,” ECF No. 1). Also before the Court is Respondents 21 Christopher J. Larose’s (Field Office

Director, U.S. Immigration and Customs Enforcement, San Diego Field Office), Kristi Noem’s (Secretary of the U.S. Department of Homeland Security), and Pamela Bondi’s (Attorney General of the United States) 24 (collectively, “Respondents”) Response to Petition for Writ of Habeas Corpus (“Ret.,” ECF

25 No. 4) and Petitioner’s Traverse (“Traverse,” ECF No. 5). For the reasons set forth below, 26 the Court DENIES Petitioner’s Petition for a Writ of Habeas Corpus. 27 /// 28 ///

## 1 BACKGROUND

2 Petitioner, a Russian national, alleges that he has been detained by the United States 3 Department of Homeland Security’s (“DHS”) Immigration and Customs Enforcement 4 (“ICE”) division at the Otay Mesa Detention Center since January 13, 2024. Pet. ¶ 16. 5 Petitioner entered the United States on the same day through the CBP One program and 6 app. Id. ¶¶ 20–21. ICE thereafter charged Petitioner as an applicant for admission, 7 detained him, and initiated removal proceedings. Id. ¶¶ 5, 23. An Immigration Judge 8 denied Petitioner’s request for a bond hearing on jurisdictional grounds. Id. ¶ 26. 9 Petitioner has remained in detention since January 13, 2024. Id. ¶ 6. Petitioner alleges his 10 prolonged detention without a bond hearing violates the Immigration and Nationality Act 11 and the Due Process Clause of the Fifth Amendment. Id. ¶ 10.

## 12 LEGAL STANDARD

13 A federal prisoner challenging the execution of his or her sentence, rather than the 14 legality of the sentence itself, may file a petition for writ of habeas corpus in the district of 15 his confinement pursuant to 28 U.S.C. § 2241. See 28 U.S.C. § 2241(a). The sole judicial 16 body able to review challenges to final orders of deportation, exclusion, or removal is the 17 court of appeals. See generally 8 U.S.C. § 1252; see also *Alvarez–Barajas v. Gonzales*, 18 418 F.3d 1050, 1052 (9th Cir. 2005) (citing REAL ID Act, Pub. L. No. 109-13, 119 Stat. 19 231, § 106(a)). However, for claims challenging ancillary or collateral issues arising 20 independently from the removal process—for example, a claim of indefinite detention— 21 federal habeas corpus jurisdiction remains in the district court. *Nadarajah v. Gonzales*, 22 443 F.3d 1069, 1076 (9th Cir. 2006), abrogated on other grounds by *Jennings v. Rodriguez*, 23 138 S. Ct. 830 (2018); *Alvarez v. Sessions*, 338 F. Supp. 3d 1042, 1048–49 (N.D. Cal. 24 2018) (citations omitted). 25 /// 26 /// 27 /// 28 ///

## 1 DISCUSSION

2 I. Jurisdiction 3 Respondents argue that this Court lacks jurisdiction under 8 U.S.C. § 1252(g). Ret. 4 at 2–3. Section 1252(g) provides that “no court shall have jurisdiction to hear any cause 5 or claim by or on behalf of any alien arising from the decision or action by the Attorney 6 General to commence proceedings, adjudicate cases, or execute removal orders against any 7 alien under this chapter.” 8 U.S.C. § 1252(g). Respondents argue that Petitioner’s claims 8 arise from DHS’s decision to commence removal proceedings. Ret. at 3. The Court 9 disagrees.

10 Section 1252(g) should be read “narrowly” as to apply “only to three discrete actions 11 that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, 12

adjudicate cases, or execute removal orders.” Ibarra-Perez v. United States, No. 24-631, 13 2025 WL 2461663, at \*6 (9th Cir. Aug. 27, 2025) (quoting Reno v. American-Arab Anti- 14 Discrimination Committee, 525 U.S. 471, 482, 487 (1999)). Section 1252(g) “does not 15 prohibit challenges to unlawful practices merely because they are in some fashion 16 connected to removal orders.” Id. at \*7. Section 1252(g) does not bar due process claims. 17 Walters v. Reno, 145 F.3d 1032, 1052–53 (9th Cir. 1998) (finding that the petitioners’ 18 objective was not to review the merits of their proceeding, but rather “to enforce their 19 constitutional rights to due process in the context of those proceedings”). 20 Here, Petitioner does not challenge the decision to commence removal proceedings 21 or any act to adjudicate or execute a removal order. Rather, Petitioner is challenging is 22 prolonged detention without a bond hearing. Traverse at 1–2. Petitioner is enforcing his 23 “constitutional rights to due process in the context of the removal proceedings— not the 24 legitimacy of the removal proceedings or any removal order.” Garcia v. Noem, No. 25-25 CV-2180-DMS-MMP, 2025 WL 2549431, at \*4 (S.D. Cal. Sept. 3, 2025). Therefore, § 26 1252(g) does not strip the Court of jurisdiction. 27 / / / 28 / / / 1 II. Merits 2 Detention under 8 U.S.C. § 1225 must comport with due process. “Nearly all district 3 courts that have considered [the constitutionality of prolonged mandatory detention] agree 4 that prolonged mandatory detention pending removal proceedings, without a bond hearing, 5 will—at some point—violate the right to due process.” Singh v. Barr, 400 F. Supp. 3d 6 1005 (S.D. Cal. 2019) (internal quotation marks and citations omitted) (cleaned up) 7 (collecting cases). In determining whether detention has become unreasonable, courts 8 evaluate various factors, including “the total length of detention to date, the likely duration 9 of future detention, and the delays in the removal proceedings caused by the petitioner and 10 the government.” Lopez v. Garland, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022). 11 Petitioner argues that his prolonged detention—now almost exactly one-year— 12 without a bond hearing violates his constitutional rights. Pet. ¶ 32. Respondents argue that 13 nearly one year of detention is not unreasonably prolonged, and that Petitioner has not 14 demonstrated that the other Lopez factors weigh in favor of granting a bond hearing. Ret. 15 at 8. Petitioner responds that, in addition to the unreasonable length of his detention, his 16 final merits hearing has been postponed five times due to the government, and now the 17 length of his detention “has become indefinite” and “unknown,” with no merits hearing 18 scheduled. Traverse at 7. The Court finds Petitioner has not established that his detention 19 is unreasonably prolonged based on delay or that there is “good reason to believe that there 20 is no significant likelihood of removal in the reasonably foreseeable future.” Zadvydas, 21 533 U.S. at 701. Petitioner’s length of detention, without more, does not render his 22 detention unreasonable. See Lopez, 631 F. Supp. at 880. Accordingly, the Court DENIES 23 the Petition. 24 / / / 25 / / / 26 / / / 27 / / / 28 / / /

## I CONCLUSION

2 Based on the foregoing, the Court DENIES Petitioner’s Petition for Writ of Habeas 3 Corpus (ECF No. 1) WITH LEAVE TO AMEND. Petitioner MAY FILE an amended 4 || petition within

twenty-one (21) days of entry of this Order. 5 IT IS SO ORDERED. 6 ||Dated: January 13, 2026 .  
tt f Le 7 on. Janis L. Sammartino United States District Judge 9 10 11 12 13 14 15 16 17 18 19 20  
21 22 23 24 25 26 27 28

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