

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

OPINION

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 22 Enforcement, San Diego Field Office), Kristi Noem’s (Secretary of
the U.S. Department 23 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