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**UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF CALIFORNIA**

Sergio MEDRANO,

Petitioner-Plaintiff,

v.

PAM BONDI, U.S. Attorney General; KRISTI  
NOEM, Secretary, United States Department of  
Homeland Security; CALEB VITELLO,  
Director, U.S. Immigration and Customs  
Enforcement; MOISES BECERRA, San  
Francisco Field Office Director, U.S.  
Immigration and Customs Enforcement; RON  
MURRAY, Warden of Mesa Verde ICE  
Processing Center,

Respondents-Defendants.

Case No. 25-119

**PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT  
TO 28 U.S.C. § 2241 AND  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

IMMIGRATION HABEAS CASE

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND  
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF  
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**INTRODUCTION**

1. Petitioner, Mr. Sergio Medrano, brings this case to challenge his unlawful and prolonged nineteen-month incarceration by the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) in an immigration jail without the possibility for bond. He seeks an order from this Court directing his outright release from custody because he is neither a danger nor a flight risk. Alternatively, should the Court find that outright release is not appropriate, the Court should conduct a bond hearing or, in the alternative, direct DHS to provide Mr. Medrano with a bond hearing before a neutral adjudicator that comports with due process, where (1) DHS must carry the burden to establish, by clear and convincing evidence, that his continued prolonged incarceration is necessary and (2) the neutral adjudicator, in rendering a decision, is required to consider alternatives to detention, Mr. Medrano's ability to pay a bond, and the amount of time that he has already been physically confined at an immigration jail.

2. Mr. Medrano is a thirty-year-old native of Mexico who was brought to the United States when he was just four years old. He is married to a U.S. citizen and has two minor U.S. citizen children who are nine and four years old, respectively. Mr. Medrano grew up in Santa Barbara, and upon release from custody, he plans to return there to reside with his family and to continue caring for and raising his U.S. citizen son, who is autistic.

3. As a child and teenager, Mr. Medrano was surrounded by negative influences. Gang members and gang activity permeated his neighborhood and schools. Although he tried to lead a law-abiding life, he was arrested twice riding his bicycle on the sidewalk and one for riding it without a light. Police assumed he was affiliated with a gang many years before he ever made the decision to actually join one.

4. At a young age, Mr. Medrano was diagnosed with ADHD. He was unable to continue with his prescribed ADHD medications, however, because they were too expensive and his family could not afford them.

5. On October 23, 2014, at the age of twenty, Mr. Medrano was arrested and subsequently convicted of misdemeanor vandalism in violation of California Penal Code (PC) § 584(b)(2)(a)

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1 with a gang enhancement under PC § 186.22(D). The criminal court sentenced him to 120 days  
2 in jail, three years of probation, and \$300 in restitution. The following month, DHS served Mr.  
3 Medrano with a Notice to Appear and initiated removal proceedings against him, alleging that he  
4 was removable as a noncitizen present in the United States who had not been admitted or  
5 paroled. An Immigration Judge (IJ) later granted Mr. Medrano bond, and he was released from  
6 custody.

7 6. Several years later, on April 5, 2019, Mr. Medrano pleaded guilty to assault with a deadly  
8 weapon in violation of PC § 245(a)(1) and admitted as true a gang enhancement under PC §  
9 186.22(b)(1). Prior to sentencing, the District Attorney for the County of Santa Barbara granted  
10 him a *Cruz* waiver, *People v. Cruz*, 44 Cal.3d 1247, 1254 (1988), and released him on his own  
11 recognizance based on his promise to appear before the court for sentencing. The court  
12 ultimately sentenced him to 361 days in jail, with credit for 181 days served and an additional  
13 180 days at half time credit, and three years of supervised probation with standard terms. As a  
14 result, Mr. Medrano did not have to return to jail following his sentencing hearing.

15 7. On June 4, 2021, Mr. Medrano pleaded guilty to carrying a dirk or dagger pursuant to PC  
16 § 21310 and driving under the influence under California Vehicle Code § 23152(b). Prior to  
17 sentencing on July 30, 2021, the District Attorney again granted him a *Cruz* waiver, *Cruz*, 44  
18 Cal.3d at 1254, and released him from custody so that he could say goodbye to his infant  
19 daughter, who was approximately one year old at the time, his son Mason, and his other family  
20 members. In compliance with the terms of his *Cruz* waiver and release on his own recognizance,  
21 Mr. Medrano appeared before the court for his sentencing hearing and then surrendered to begin  
22 his prison sentence.

23 8. While in prison, Mr. Medrano made the difficult and potentially life-threatening decision  
24 to leave his gang and publicly renounce gang activity. In recognition of the clear and present  
25 danger to Mr. Medrano's life, the California Department of Corrections and Rehabilitation  
26 placed him in segregated housing for the remainder of his sentence.

27 9. On or about June 22, 2023, upon his release from Pleasant Valley State Prison, Mr.

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Medrano was incarcerated by ICE and transferred to the Mesa Verde ICE Processing Center in Bakersfield, California.

10. At no point during the nineteen months that Mr. Medrano has been incarcerated by ICE has the government provided him with a single hearing to determine whether he poses such a danger or flight risk to warrant prolonged detention by ICE. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Rodriguez Diaz v. Garland*, 53 F. 4th 1189, 1198 (9th Cir. 2022); *Singh v. Garland*, No. 1:23-cv-01043-EPG-HC, 2023 WL 5836048, \*4 (E.D. Cal. Sept. 8, 2023). This is even though Mr. Medrano's removal from the United States is not reasonably foreseeable, as the Ninth Circuit Court of Appeals (Ninth Circuit) has issued him a stay of removal and his petition for review is pending.

11. Were Mr. Medrano to be provided with a bond hearing before a neutral decisionmaker, he would be released from custody—either on a bond or pursuant to alternatives to detention—because he is not flight risk nor a danger to the community. To the contrary, he has undergone a complete transformation in his life which was prompted by the birth of his daughter in 2020. Since then, Mr. Medrano has been baptized and received his first communion, and he attends weekly religious services. Upon release, he intends to continue his weekly church attendance at his cousin's Catholic church.

12. Each day that Mr. Medrano is detained, both he and his family suffer irreparable harm, including the deprivation of his constitutional rights, emotional distress, and economic hardship. He himself will suffer even more devastating harms if he remains in custody: the loss of the opportunity to support, care for, and help raise his minor U.S. citizen children; separation from his U.S. citizen wife; and the continued loss of income.

13. Mr. Medrano thus respectfully requests that this Court order his immediate release from confinement as Respondents have no justification for taking away, without due process, his liberty. In the alternative, Mr. Medrano requests that the Court order that he be provided a constitutionally adequate bond hearing before a neutral decisionmaker where the government bears the burden to prove, by clear and convincing evidence, that he is a danger to the

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community or such a flight risk that his continued detention is necessary. *See Zadvydas*, 533 U.S. at 692; *Hernandez*, 872 F.3d 976 (9th Cir. 2017). And even then, continued detention would only be justified after consideration of alternatives to detention that could mitigate any risk that his release would present and after consideration of the length of his already very long incarceration by ICE. *Hernandez*, 872 F.3d at 990-91.

#### CUSTODY

14. Mr. Medrano is currently detained by DHS at the Mesa Verde ICE Processing Center in Bakersfield, California. During these past nineteen months, he has yet to be provided with a constitutionally compliant bond hearing where the government must justify his detention by clear and convincing evidence.

#### JURISDICTION

15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, 28 U.S.C. § 1361, and 5 U.S.C. § 702. This action arises under the Due Process clause of the Fifth Amendment of the United States Constitution, and under the Immigration and Nationality Act of 1952 (INA). The 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. Congress has preserved judicial review of challenges to mandatory immigration detention. *See, e.g., Nielsen v. Preap*, 139 S. Ct. 954, 961-62 (2019).

#### REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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).

17. 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

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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).

18. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs courts to give petitions for habeas corpus ‘special, preferential consideration to insure expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action creating the perception “that courts are more concerned with efficient trial management than with the vindication of constitutional rights.” *Id.*

### VENUE

19. Venue is proper in the Eastern District of California because a substantial part of the events and omissions giving rise to Mr. Medrano’s claims occurred in the district. 29 U.S.C. § 1391(b)(2). Mr. Medrano is also currently confined at the Mesa Verde ICE Processing Center in Bakersfield, California, in the Eastern District.

### INTRADISTRICT ASSIGNMENT

20. Assignment to the Fresno Division of this Court is proper under Local Rule 120(d) because this action arises in Kern County, the county where Mr. Medrano is detained.

### PARTIES

21. **Petitioner-Plaintiff Sergio Medrano** is currently incarcerated by Respondents-Defendants at the Mesa Verde ICE Processing Center in Bakersfield, California. He has been confined without bond by ICE since June 22, 2023, even though his incarceration has become prolonged and his removal is not reasonably foreseeable. On June 3, 2024, the Ninth Circuit granted Mr. Medrano a stay of removal, and his petition for review is currently pending. Final briefing will not be completed until March 14, 2025, at the earliest, and a decision could still be many months after that. Moreover, his *pro bono* attorney representing him at the Ninth Circuit believes there are very strong grounds for overturning the Board of Immigrations Appeals’ (BIA) decision.

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1       **22. Respondent Pam Bondi** is the Attorney General of the United States and the most senior  
 2 official in the U.S. Department of Justice (DOJ). She has the authority to interpret the  
 3 immigration laws and adjudicate removal cases. The Attorney General delegates this  
 4 responsibility to the Executive Office for Immigration Review (EOIR), which administers the  
 5 immigration courts and the BIA. She is named in her official capacity.

6       **23. Respondent Kristi Noem** is the Secretary of DHS. She has authority over the detention  
 7 and departure of noncitizens, like Mr. Medrano, because she administers and enforces  
 8 immigration laws pursuant to section 402 of the Homeland Security Act of 2002. 107 Pub L. 296  
 9 (November 25, 2003). Secretary Noem is the legal custodian of Mr. Medrano. She is named in  
 10 her official capacity.

11       **24. Respondent Caleb Vitello** is the Acting Director of ICE. Respondent Vitello is  
 12 responsible for ICE's policies, practices, and procedures, including those relating to the detention  
 13 of immigrants. As the head of ICE, an agency within the DHS that detains and removes certain  
 14 noncitizens, Respondent Vitello is a legal custodian of Mr. Medrano. He is named in his official  
 15 capacity.

16       **25. Respondent Moises Becerra** is the Field Office Director responsible for the San  
 17 Francisco Field Office of ICE Enforcement and Removal Operations, which has administrative  
 18 jurisdiction over Mr. Medrano's case. As such, Respondent Becerra is the federal official most  
 19 directly responsible for overseeing Mesa Verde ICE Processing Center. He is a legal custodian of  
 20 Mr. Medrano and is named in his official capacity.

21       **26. Respondent Ron Murray** is the Warden of Mesa Verde Detention Center, where Mr.  
 22 Medrano is being held. Respondent Murray oversees the day-to-day operations of Mesa Verde  
 23 Detention Center and acts at the direction of Respondents Bondi, Vitello, and Becerra. He is a  
 24 custodian of Mr. Medrano and is named in his official capacity.

### 25                               **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

26       27. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.  
 27 *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if

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1 “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies  
2 would be a futile gesture, irreparable injury will result, or the administrative proceedings would  
3 be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and  
4 quotation marks omitted)). Mr. Medrano asserts that exhaustion should be waived because  
5 administrative remedies are (1) futile and (2) his continued detention results in irreparable harm.

6 28. Mr. Medrano has been detained for over nineteen months without an individualized  
7 determination before a neutral adjudicator as to whether his detention is justified. This Court and  
8 others in this circuit have repeatedly waived the exhaustion requirement in cases where  
9 individuals in immigration custody (1) have not been provided bond hearings, as a result of the  
10 application of 8 U.S.C. § 1226(c), and (2) allege that their continued detention is unlawful. *See*  
11 *e.g. Bermudez v. Gonzalez*, No. CV F 07-00807 LJO DLB HC, 2007 WL 2913938 (E.D. Cal.  
12 Oct. 4, 2007); *Tam v. I.N.S.*, 14 F.Supp.2d 1184, 1189 (E.D. Cal. 1998) (waiving exhaustion  
13 because “petitioner’s constitutional interests weigh heavily against requiring him to exhaust  
14 administrative remedies.”); *De Paz Sales v. Barr*, No. 19-CV-04148-KAW, 2019 WL 4751894,  
15 at \*4 (N.D. Cal. Sept. 30, 2019) (waiving exhaustion upon finding that detained noncitizen will  
16 suffer irreparable harm upon noting that “[c]ourts in this district, however, have found that  
17 waiver is appropriate when detention has become prolonged”); *Ortega-Rangel v. Sessions*, 313  
18 F. Supp. 3d 993, 1002-04 (N.D. Cal. May 14, 2018) (waiving exhaustion because continued  
19 detention alleged to be unlawful would cause irreparable harm to noncitizen); *Villalta v.*  
20 *Sessions*, No. 17-CV-05390-LHK, 2017 WL 4355182, at \*3 (N.D. Cal. Oct. 2, 2017) (finding  
21 where noncitizen had been detained for eight months that exhaustion should be waived because  
22 noncitizen’s unlawful detention subjected him to irreparable harm). Moreover, exhaustion is  
23 futile given the language of 8 U.S.C. § 1226(c). *See below.*

24 29. Administrative relief is futile and not efficacious in Mr. Medrano’s case. He has a  
25 conviction under PC § 245(a)(1) for which he received a two-year sentence. Under current Ninth  
26 Circuit precedent, PC § 245(a)(1) convictions are held to be “crimes involving moral turpitude.”  
27 *Safaryan v. Barr*, 975 F.3d 976 (9th Cir. 2020). As a result, Mr. Medrano is statutorily ineligible

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1 for bond under 8 U.S.C. § 1226(c). *See* 8 U.S.C. § 1226(c)(1)(A), (B) (providing for mandatory  
2 custody of noncitizens convicted of offenses covered by 8 U.S.C. §§ 1182(a)(2)(A)(i)(I) and  
3 1227(a)(2)(A)(i)); *see also* 8 U.S.C. §§ 1182(a)(2)(A)(i)(I), 1227(a)(2)(A)(i) (rendering  
4 inadmissible a noncitizen convicted of a crime involving moral turpitude).

5 30. More importantly, every day that Mr. Medrano remains detained causes him harm that  
6 cannot be repaired. His continued detention puts his physical and mental health at greater risk,  
7 further warranting a finding of irreparable harm and the waiver of the prudential exhaustion  
8 requirement. Mr. Medrano is now on medication for depression and his inability to sleep, despite  
9 his belief that therapy and exercise are healthier alternatives. The Court must consider this in its  
10 irreparable harm analysis of the effects on Mr. Medrano as his detention continues. *See De Paz*  
11 *Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL 353465, at \*4 (N.D. Cal. Jan. 21, 2020)  
12 (noting that the petitioner “continues to suffer significant psychological effects from his  
13 detention, including anxiety caused by the threats of other inmates and two suicide attempts,” in  
14 finding that petitioner would suffer irreparable harm warranting waiver of exhaustion  
15 requirement).

16 31. Moreover, besides the harm to himself due to his prolonged detention, Mr. Medrano’s  
17 family members remain without a husband and a father. *See Hernandez*, 872 F.3d at 995. Prior to  
18 being detained, Mr. Medrano was employed at an animal feed warehouse managing the  
19 inventory, orders, and deliveries. He was also very involved in his son’s upbringing. In 2021,  
20 Mr. Medrano complied with the terms and conditions of his *Cruz* waiver, which enabled him to  
21 arrange his affairs and say goodbye to his young children, by appearing for his sentencing  
22 hearing and surrendering to prison. Even while in detention, he has maintained weekly contact  
23 with both of his children to provide them with a modicum of the emotional support that he did  
24 before. Every single day Mr. Medrano is detained is a day that he cannot help or support his  
25 family – be that emotionally or financially – and therefore a day he suffers irreparable harm from  
26 that also. *See Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at \*7 (N.D. Cal.  
27 Dec. 24, 2018) (“Although these effects from irreparable harm are the same type of harm any

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1 person who is detained may suffer, they are irreparable in nature.”). Accordingly, the Court  
2 should waive the prudential exhaustion requirement.

3 **STATEMENT OF FACTS**

4 32. Mr. Medrano is a native of Mexico who was born on October 8, 1994. *See* Declaration of  
5 Johnny Sinodis (Sinodis Decl.) at Exhibit (Exh.) A. He was brought to the United States in or  
6 around 1999, when he was four years old. Mr. Medrano’s son, daughter, and wife are all U.S.  
7 citizens. *Id.* at Exhs. A, C-E. Prior to his current detention, Mr. Medrano lived in a home in Santa  
8 Barbara, California, with his sister. He provided regular care to his U.S. citizen son, supporting  
9 him both financially and emotionally. He was employed at an animal feed warehouse, where he  
10 managed inventory, orders, and deliveries. *Id.* at Exh. B.

11 33. Mr. Medrano grew up in a neighborhood dominated by gang activity. *Id.* At a young age,  
12 he was diagnosed with ADHD but could not continue taking his medications due to their high  
13 cost. *Id.* His family simply could not afford to provide him with the treatment that he needed. *Id.*  
14 Mr. Medrano struggled in school and had great difficulty exercising sound decision-making and  
15 judgment.

16 34. To make matters worse, because of the overwhelming presence of gang members and  
17 gang activity in his neighborhood, police identified Mr. Medrano as an affiliated gang member,  
18 years before he ever actually was. He was frequently targeted for questioning and searches  
19 which, as a result, led to several arrests and minor infractions that did not carry any immigration  
20 consequences. *Id.* These include two arrests for riding his bicycle on the sidewalk and once for  
21 riding it without a light. *Id.*

22 35. On October 23, 2014, when he was twenty years old, Mr. Medrano was arrested for  
23 vandalism. Several months later, on February 9, 2015, he pleaded guilty to misdemeanor  
24 vandalism under PC § 584(b)(2)(a) with a gang enhancement under PC § 186.22(D). He was  
25 sentenced to 120 days in jail, three years of probation, and \$300 in restitution.

26 36. On March 3, 2015, ICE served Mr. Medrano with a Notice to Appear, alleging that he  
27 was removable as a noncitizen present in the United States who had not been admitted or paroled



1 pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* at Exh. G.

2 37. On April 23, 2015, an IJ granted Mr. Medrano bond in the amount of \$10,000, which he  
3 paid.

4 38. Two years later, on June 27, 2017, ICE detained Mr. Medrano for a second time and  
5 cancelled his bond the following day.

6 39. Shortly thereafter, on August 1, 2017, an IJ again ordered Mr. Medrano to be released on  
7 a bond in the amount of \$12,500.

8 40. Several years later, on April 5, 2019, Mr. Medrano pleaded guilty to assault with a deadly  
9 weapon in violation of PC § 245(a)(1) and admitted as true a gang enhancement under PC §  
10 186.22. *Id.* at Exh. M.

11 41. On June 4, 2021, Mr. Medrano pleaded guilty to carrying a dirk or dagger in violation of  
12 PC § 21310 and driving under the influence under California Vehicle Code § 23152(b). *Id.* at H.  
13 Following his change of plea hearing, the District Attorney granted him a *Cruz* waiver and  
14 released him on an order of own recognizance so that he could say goodbye to his daughter, son,  
15 and family members. If the District Attorney believed that Mr. Medrano was a danger or flight  
16 risk, they would not have exercised their discretion to grant a *Cruz* waiver. Several weeks later,  
17 on July 30, 2021, Mr. Medrano appeared before the criminal court judge for sentencing and was  
18 ordered to serve two years in prison for violating PC § 245(a)(1), two years in prison for  
19 violating PC § 21310 (to run concurrent with his aggravated assault conviction), and five years  
20 for the gang enhancement. *Id.* In total, Mr. Medrano served two years in custody and was  
21 released early from prison on June 22, 2023.

22 42. During his prison sentence, Mr. Medrano left his gang and publicly renounced gang life.  
23 He made this decision despite the great danger that it carried. Prison officials thereafter placed  
24 him into segregated housing in recognition of the fact that he could be killed for walking away  
25 from the gang, especially because Mr. Medrano has gang tattoos in prominent locations all over  
26 his body. *Id.* at Exh. B.

27 43. On June 22, 2023, ICE incarcerated Mr. Medrano upon his release from prison. He has

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1 been subjected to mandatory incarceration without the possibility of a bond hearing since that  
2 time. *Id.* at Exh. G.

3 44. Importantly, in his attached declaration, Mr. Medrano explains that his daughter's birth  
4 served as a defining moment, convincing him that he needed to leave gang life and become more  
5 devout in his spirituality, two goals that he has since achieved. *Id.* at Exh. B. If released from  
6 custody, Mr. Medrano intends to become a parishioner at his cousin's Catholic church in Santa  
7 Barbara.

8 45. Furthermore, prior to his incarceration in 2021, Mr. Medrano had participated in an  
9 outpatient recovery program called Project Recovery, a program to which he intends to return  
10 upon his release. *Id.* He regularly attended meetings and was tested to confirm that he was  
11 maintaining his sobriety, his prior alcohol use a result of being introduced to alcohol in his home  
12 as a child by his father. Mr. Medrano was also actively pursuing his secondary education, which  
13 was interrupted by his detention during COVID-19 lockdowns. *Id.* Mr. Medrano intends to return  
14 to this upon his release as well.

15 46. Since being detained by ICE on June 22, 2023, Mr. Medrano had a number of hearings  
16 before the Adelanto Immigration Court, culminating with his final Individual Calendar Hearing  
17 on January 22, 2024.

18 47. While in removal proceedings, Mr. Medrano sought protection under the Convention  
19 Against Torture (CAT) given the exceedingly high likelihood that he would be subjected to  
20 torture at the direction of, or with the consent or acquiescence of, a public official in Mexico due  
21 to his prior gang affiliation and gang tattoos that are readily apparent in prominent locations on  
22 his body. Mr. Medrano further testified about how his mother was kidnapped and ransomed for  
23 money in Mexico, and that his cousin was also murdered by a Mexican cartel.

24 48. On January 22, 2024, despite finding that Mr. Medrano provided credible testimony, and  
25 even though a country conditions expert concluded that there is a clear probability that Mr.  
26 Medrano would be tortured in Mexico, the IJ issued a decision finding Mr. Medrano had not met  
27 his burden to obtain deferral of removal under the CAT and ordered him removed to Mexico.

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1 Sinodis Decl. at Exh. J.

2 49. On February 3, 2024, Mr. Medrano appealed the IJ's decision to the BIA, which affirmed  
3 the IJ's decision and dismissed his appeal on April 22, 2024. *Id.*

4 50. On June 3, 2024, Mr. Medrano filed his pending petition for review with the Ninth  
5 Circuit. He was issued a stay of removal over the government's opposition which remains in  
6 effect. *See Medrano v. Garland*, Case No. 24-3474 at Dkt. 2.

7 51. On July 11, 2024, the government filed a Motion for Summary Disposition, which Mr.  
8 Medrano opposed. *Id.* at Dkts. 9, 13, 16. On November 12, 2024, the Ninth Circuit denied the  
9 government's Motion for Summary Disposition. *Id.* at Dkt. 17.

10 52. Mr. Medrano filed his Opening Brief with the Ninth Circuit on January 22, 2025. The  
11 government's Answering Brief is due on February 21, 2025. Mr. Medrano's Reply Brief is due  
12 on March 14, 2025.

13 53. As stated above, despite being incarcerated by ICE for more than nineteen months, Mr.  
14 Medrano has yet to be provided with a constitutionally compliant bond hearing where the  
15 government must justify his detention by clear and convincing evidence.

16 54. Nevertheless, Mr. Medrano has utilized his time at the Mesa Verde ICE Processing  
17 Center to better himself and to prepare himself to reintegrate into society once released. On a  
18 daily basis, in addition to attending church services, he prays, meditates, and reads the Bible.  
19 Sinodis Decl. at Exh. B. Every week, he participates in "CRC," a substance use program, and  
20 Alcoholics Anonymous. *Id.* He has also worked as a porter, cleaning the detention facility and  
21 ensuring that his time is well utilized to benefit those around him. *Id.*; *see also id.* at Exh. K.

22 55. Mr. Medrano's letters of support further evidence that he strives to be a positive role  
23 model for others at Golden State Annex while also providing assistance to those in need,  
24 including by helping "monolingual Spanish speakers and illiterate individuals in his dorm" to  
25 "sign up for consultations and access legal services[,] fill out forms for applications for relief[,]  
26 helping them enroll in the facility's religious services and the facility's 'CRC' program, which  
27 provides rehabilitative classes[,] interpreting letters from the court and lawyers[,] and assisting

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individuals with gathering information and evidence relative to their cases.” *Id.* at Exh. M. Given his significant transformation over the last four years, community members “wholeheartedly believe [he] will continue to be a positive influence and a productive member of society” who “will work diligently to support his family[.]” *Id.*

### **LEGAL BACKGROUND**

#### ***Statutory and Regulatory Framework during the Pendency of Removal Proceedings Including Judicial Review***

56. The framework for the detention and release of noncitizens during removal proceedings is set forth by 8 U.S.C. § 1226. Section 1226(a) created the “default rule.” *Jennings v. Rodriguez*, 138 S. Ct. 830, 837 (2018). The government may arrest and detain a noncitizen “pending a decision on whether the [noncitizen] is to be removed from the United States” and, “[e]xcept as provided in subsection (c) [of Section 1226] ... may continue to detain” or “may release” the noncitizen pending removal proceedings. 8 U.S.C. § 1226(a).

57. Regulations provide that noncitizens detained under section 1226(a) “receive bond hearings at the outset of detention.” *Jennings*, 138 S. Ct. at 847 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).<sup>1</sup>

58. Section 1226(c) creates a narrow exception to the default rule of bond eligibility. Paragraph (1) of Section 1226(c) provides that the government “shall take into custody any [noncitizen] who” is removable on certain criminal and national security grounds, “when the [noncitizen] is released” from criminal custody. 8 U.S.C. § 1226(c)(1). Paragraph (2) of Section 1226(c) provides that the government “may release a[] [noncitizen] described in paragraph (1) only” in rare circumstances not applicable here, *i.e.*, if release is necessary for witness protection and other conditions are met. Other than the narrow exceptions set forth in paragraph 2, no others

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<sup>1</sup> Although the statute and regulations do not specify the burden or standard of proof to be applied at bond hearings, the BIA has held that “[t]he burden is on the [noncitizen] to show to the satisfaction of the [immigration judge] that he or she merits release on bond.” *Matter of Guerra*, 42 I&N Dec. 37, 40 (BIA 2006); *see also Matter of Adeniji*, 22 I&N Dec. 1102, 1116 (BIA 1999) (holding that the noncitizen “must demonstrate that his release would not pose a danger to property or persons, and that he is likely to appear for any future proceedings”).  
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1 subject to sub-section (c) may be released according to the statute.

2 59. The statutory authority governing a noncitizen's detention remains under Section 1226  
3 until the noncitizen enters the "removal period," at which point the detention authority shifts to 8  
4 U.S.C. § 1231(a). The removal period commences upon, as relevant here, "the date the order of  
5 removal becomes administratively final," or "if the removal order is judicially reviewed and if a  
6 court orders a stay of removal [], the date of the court's final order." 8 U.S.C. § 1231(a)(1)(B).  
7 *See also Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008) (clarifying that a  
8 noncitizen initially detained under 8 U.S.C. § 1226(a) whose removal has been stayed by the  
9 court of appeals pending disposition of his petition for review remains detained under that  
10 statutory authority).

11 60. For noncitizens who are subject to mandatory detention, the statutory authority governing  
12 their detention is 8 U.S.C. § 1226(c) concurrently to 8 U.S.C. § 1226(a). *Hernandez Avilez v.*  
13 *Garland*, 69 F.4th 525, 534-35 (9th Cir. 2023). Noncitizens detained subject to § 1226(c) remain  
14 so even during the judicial phase of their removal proceedings. *Id.* Just as with § 1226(a), the  
15 detention authority under § 1226(c) ends when the removal period begins, at which point it shifts  
16 to 8 U.S.C. § 1231(a).

17 ***The Detention of Noncitizens Must Comply with Due Process***

18 61. The Due Process Clause of the Fifth Amendment prohibits the government from  
19 depriving individuals of their life, liberty, or property without due process of law. U.S. Const.  
20 amend. V. "Freedom from imprisonment—from government custody, detention, or other forms  
21 of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects.  
22 *Zadvydas*, 533 U.S. at 690. "These protections apply to all persons within the United States,  
23 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or  
24 permanent, and to immigration detention as well as criminal detention." *Hernandez*, 872 F.3d at  
25 990 (internal quotations omitted). The Supreme Court has long held that civil detention must not  
26 be punitive or arbitrary, and generally must rest on an individualized determination of the  
27 necessity for detention accompanied by fair procedural safeguards. Civil commitment is

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1 constitutional only when there are “proper procedures and evidentiary standards,” including  
 2 individualized findings of dangerousness. *Kansas v. Hendricks*, 521 U.S. 346, 357-58 (1997); *see*  
 3 *also Foucha v. Louisiana*, 504 U.S. 71, 79 (1992) (noting individual’s entitlement to  
 4 “constitutionally adequate procedures to establish the grounds for his confinement”).

5 62. In the context of immigration detention, it is “well-settled” that “due process requires  
 6 adequate procedural protections to ensure that the government’s asserted justification for  
 7 physical confinement outweighs the individual’s constitutionally protected interest in avoiding  
 8 physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). “The government has  
 9 legitimate interests in protecting the public and in ensuring that noncitizens in removal  
 10 proceedings appear for hearings, but any detention incidental to removal must ‘bear a reasonable  
 11 relation to its purpose.’” *Hernandez*, 872 F.3d at 990 (citing *Zadvydas*, 533 U.S. at 690). In  
 12 *Zadvydas*, the Court interpreted the statute governing detention after a final order of removal to  
 13 require the release of a noncitizen whose removal is not “reasonably foreseeable.” *Id.* at 699-701.  
 14 In doing so, the Court reaffirmed that, as with other types of civil detention, immigration  
 15 detention can only be imposed with strong procedural safeguards to ensure that it serves a  
 16 legitimate purpose. *See, e.g., id.* at 691-92 (noting that preventive detention based on  
 17 dangerousness is permissible “only when limited to specially dangerous individuals and subject  
 18 to strong procedural protections”).

19 63. The Court carved out a narrow exception to the general rule that civil detention  
 20 must be accompanied by an individualized hearing in *Demore v. Kim*, 538 U.S. 510 (2003). In  
 21 *Demore*, the Court upheld Section 1226(c) against a facial challenge to the statute, in a case  
 22 where the noncitizen was detained within a day of his release from criminal incarceration. *Id.* at  
 23 513-14; *see also* Brief for Petitioner at 4, *Demore v. Kim*, 538 U.S. 510 (2003) (No. 01-1491),  
 24 2002 WL 31016560.

25 64. The *Demore* Court held, based on the factual record before it, that “Congress, justifiably  
 26 concerned that deportable criminal [noncitizens] who are not detained continue to engage in  
 27 crime and fail to appear for their removal hearings in large numbers, may require that [such

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1 noncitizens] be detained for the brief period necessary for their removal proceedings.” *Id.* at 513  
 2 (emphasis added); *see also id.* at 526 (noting the “narrow” nature of the mandatory detention  
 3 statute). The “brief period” of detention in *Demore* was four months.

4 65. The *Demore* Court had no occasion to consider the *prolonged*—as opposed to brief—  
 5 detention of such an individual in immigration custody. Indeed, the statistics relied upon by the  
 6 Supreme Court in upholding mandatory detention under § 1226(c) were later disclosed by the  
 7 government to be inaccurate and misleading. *See* Letter from Ian Heath Gershengorn, Acting  
 8 Solicitor General, to the Honorable Scott S. Harris, Clerk, U.S. Supreme Court, “Re: *Demore v.*  
 9 *Kim*, S. Ct. No. 01-1491” (Aug. 26, 2016),  
 10 <https://www.wsj.com/public/resources/documents/Demore.pdf>. Thirteen years after the Supreme  
 11 Court’s decision in *Demore*, the government admitted that its calculations were wrong and that  
 12 actual average detention periods for noncitizens who pursued appeals were more than double the  
 13 time originally reported. *Id.*

14 ***Mr. Medrano is, At A Minimum, Entitled to a Bond Hearing***

15 66. Mr. Medrano’s continued detention without any process is contrary to our understanding  
 16 of fairness and justice, and in violation of his Fifth Amendment Due Process rights.

17 Prolonged Detention

18 67. Mr. Medrano’s prolonged detention of over nineteen months without a bond hearing  
 19 violates due process. Due process requires that the government provide bond hearings to  
 20 noncitizens whose detention has become prolonged. While the Supreme Court upheld the  
 21 mandatory detention of a noncitizen under Section 1226(c) in *Demore*, it did so based on the  
 22 petitioner’s concession of deportability and the Court’s understanding that detentions under  
 23 Section 1226(c) are typically “brief.” *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has  
 24 been detained for a prolonged period or is pursuing a substantial defense to removal or claim to  
 25 relief, due process requires an individualized determination that such a significant deprivation of  
 26 liberty is warranted. *Id.* at 532 (Kennedy, J., concurring) (“individualized determination as to his  
 27 risk of flight and dangerousness” may be warranted “if the continued detention became

unreasonable or unjustified”); *see also Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (“lesser safeguards may be appropriate” for “short-term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (in Eighth Amendment context, “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”).

68. In 2018, the Supreme Court held that the Ninth Circuit erred by interpreting Sections 1226(c) and 1225(b) to require bond hearings as a matter of statutory construction. *Jennings*, 138 S. Ct. 830 at 844. Because the Ninth Circuit has not decided whether the Constitution itself requires bond hearings in cases of prolonged detention, the Court remanded for the Ninth Circuit to address the issue. *Id.* at 851. The majority remanded to the lower courts to address the constitutional question in the first instance but expressed “grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government’s arbitrary deprivation of liberty would have thought so.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018). Since then, the Ninth Circuit has affirmed that, as a matter of due process, certain noncitizens may be due habeas relief in the form of a constitutionally compliant bond hearing. *See, e.g., Hernandez-Aviles*, 69 F.4th at 539 (remanding proceedings to the district court to adjudicate petitioner’s due process claims).

69. Detention without a bond hearing is unconstitutional when it exceeds six months. *See Demore*, 538 U.S. at 529-30 (upholding only “brief” detentions under Section 1226(c), which last “roughly a month and a half in the vast majority of cases in which it is invoked, and about five months in the minority of cases in which the [noncitizen] chooses to appeal”); *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the constitutionality of detention for more than six months”). A bright-line rule that detention becomes prolonged at six months is consistent with Supreme Court and Ninth Circuit precedent. *See Diouf II*, 634 F.3d 1085, 1091-92 (9th Cir. 2011) (“When detention crosses the six-month threshold and release or removal is not imminent,



the private interests at stake are profound.”); *Demore*, 538 U.S. at 529-30; *Zadvydas*, 533 U.S. at 701. *See also Duc Quoc Bui v. Holder*, No. 1:15-cv-0-636-JLT, 2015 WL 3903764, \*1 (E.D. Cal. June 25, 2015) (“[O]nce a noncitizen’s detainment under Section 1226(c) becomes prolonged – meaning that the detention has lasted for six months – the individual is entitled to a bond hearing.”).

70. The recognition that six months is a substantial period of confinement—and is the time after which additional process is required to support continued incarceration—is deeply rooted in our legal tradition. With few exceptions, “in the late 18th century in America crimes triable without a jury were for the most part punishable by no more than a six-month prison term...” *Duncan v. State of La.*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this tradition, the Supreme Court has found six months to be the limit of confinement for a criminal offense that a federal court may impose without the protection afforded by jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a benchmark in other contexts involving civil detention. *See McNeil*, 407 U.S. at 249, 250-52 (recognizing six months as an outer limit for confinement without individualized inquiry for civil commitment). Various courts in this district have ordered noncitizens entitled to a bond hearing once detention surpasses six-months. *See e.g., Lopez v. Garland*, 631 F. Supp. 3d 870, 884 (E.D. Cal. 2022); *Singh v. Garland*, No. 1:23-cv-01043-EPG-HC, 2023 WL 5836048 (E.D. Cal. Sept. 8, 2023); *Sho v. Current or Acting Field Off. Dir.*, No. 1:21-CV-01812 TLN AC, 2023 WL 4014649, at \*1 (E.D. Cal. June 15, 2023), *report and recommendation adopted*, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21, 2023). Here, Mr. Medrano has been detained without bond almost three-times longer than this Court and the Ninth Circuit have recognized would require a bond hearing to satisfy due process.

#### Mathews v. Eldridge Analysis

71. Even if the Court were to decline to apply a bright-line six-month rule, Mr. Medrano’s nineteen-month incarceration without a determination that his continued incarceration is justified inarguably violates due process. *See Lopez v. Garland*, 631 F. Supp. 3d 870, 884 (E.D. Cal.

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1 2022) (finding one year of detention unreasonably prolonged); *Velasco Lopez v. Decker*, 978  
2 F.3d 842, 855 n.13 (2d Cir. 2020).

3 72. Mr. Medrano's constitutional entitlement to a bond hearing is also confirmed by the  
4 balance of factors under *Mathews v. Eldridge*, 424 U.S. 319 (1976), which courts apply to  
5 determine whether the procedures followed by the government in any particular case are  
6 constitutionally sufficient. Under *Mathews*, the "specific dictates of due process generally  
7 requires consideration of three distinct factors: First, the private interest that will be affected by  
8 the official action; second, the risk of an erroneous deprivation of such interest through the  
9 procedures used, and the probable value, if any, of additional or substitute procedural safeguards;  
10 and finally, the Government's interest, including the function involved and the fiscal and  
11 administrative burdens that the additional or substitute procedural requirements would entail."  
12 *Mathews*, 424 U.S. at 335.

13 73. First, the private interest at stake in this case is among the most profound individual  
14 interests recognized by our legal system: Mr. Medrano's physical freedom. "Freedom from  
15 imprisonment—from government custody, detention, or other forms of physical restraint— lies  
16 at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690. The Ninth Circuit has  
17 characterized the right at stake when a noncitizen is held in immigration detention as  
18 "fundamental." *Hernandez*, 872 F.3d at 993. *See also Singh v. Holder*, 638 F.3d 1196, 1204 (9th  
19 Cir. 2011) (noting that the Supreme Court "repeatedly has recognized that civil commitment for  
20 any purpose constitutes a significant deprivation of liberty") (quoting *Addington v. Texas*, 441  
21 U.S. 418, 427 (1979)). Mr. Medrano, who is being held in "incarceration-like conditions," has an  
22 overwhelming interest at stake in this case, regardless of the length of his immigration detention,  
23 because "any length of detention implicates the same" fundamental rights. *Rajnish v. Jennings*,  
24 No. 3:20-cv-07819-WHO, 2020 WL 7626414, at \*6 (N.D. Cal. Dec. 22, 2020).

25 74. Second, providing a bond hearing would decrease the risk of Mr. Medrano being  
26 erroneously deprived of his liberty. The only process currently available to Mr. Medrano is the  
27 ability to submit a release request to ICE, the same agency that has arrested and detained him

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without the possibility of bond. As the Ninth Circuit has recognized, the risk of erroneous deprivation is high where custody determinations are not made by a neutral arbiter. *See e.g., Diouf v. Napolitano*, 634 F.3d 1081, 1091-92 (9th Cir. 2011) (explaining that ICE’s custody reviews in another context are not constitutionally adequate because “they do not provide an in-person hearing, they place the burden on the [noncitizen] rather than the government and they do not provide for a decision by a neutral arbiter such as an immigration judge”); *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzalez*, 548 U.S. 30 (2006) (“A neutral judge is one of the most basic due process protections.”).

75. Here, the value of a bond hearing is high because Mr. Medrano has strong arguments that he should receive bond. These include his family commitments, including his autistic son, infant daughter, marriage to a U.S. citizen, religious devotion, and his commitment to leading a law-abiding life. Furthermore, Mr. Medrano has left the gang that he was a part of; he was even moved into a segregation unit for his own safety once he denounced gang activity.

76. Third, the government’s interest here is extremely low, because the interest at stake “is the ability to detain [Mr. Medrano] *without providing him with [a] bond hearing*, not whether the government may continue to detain him.” *See Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 765, 777 (N.D. Cal. 2019) (emphasis in original). (As explained above, the government’s purported interest in Mr. Medrano’s detention does not pass constitutional muster given the length of his detention and the fact that his removal is not reasonably foreseeable). The relief Mr. Medrano seeks is a routine process that the government provides on a daily basis and would impose only a *de minimis* burden on the government. The government has conceded as much in similar cases. *See id.*; *De Paz Sales v. Barr*, No. 19-cv-04148-KAW, 2019 WL 4751894, at \*7 (N.D. Cal. Sept. 30, 2019) (“[T]he Government does not argue there are any costs to providing a bond hearing.”).

#### Due Process Requires Certain Minimal Protections at a Prolonged Detention Bond Hearing

77. At a prolonged detention custody hearing, due process requires certain minimal protections to ensure a noncitizen’s detention is warranted: (1) DHS must bear the burden of

1 proof by clear and convincing evidence to justify continued detention; and the neutral  
 2 adjudicator must take into account (2) alternatives to detention, (3) the length of detention, and  
 3 (4) the noncitizen's ability to pay a bond.

4 78. To justify prolonged immigration detention, the government must prove by clear and  
 5 convincing evidence that the noncitizen is danger or flight risk. *See Singh*, 638 F.3d at 1203.  
 6 Where the Supreme Court has permitted civil detention in other contexts, it has relied on the fact  
 7 that the government bore the burden of proof by at least clear and convincing evidence. *See id.* at  
 8 1205 (holding that the government must prove flight risk or dangerousness by clear and  
 9 convincing evidence); *see also Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down  
 10 civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding  
 11 post-final order custody review procedures deficient because, *inter alia*, they placed the burden  
 12 on the detainee).

13 79. Notably, the Ninth Circuit has held that “due process places a heightened burden of proof  
 14 on the State in civil proceedings in which the individual interests at stake . . . are both  
 15 particularly important and more substantial than mere loss of money.” *Singh*, 638 F.3d at 1204  
 16 (internal quotations omitted). Two other circuit courts of appeal have also held that the  
 17 government must bear the burden of proof in a bond hearing where the noncitizen has been  
 18 detained for a prolonged period. *See Velasco Lopez v. Decker*, 978 F.3d 842, 847 (2d Cir. 2020);  
 19 *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021). Further, various courts in this district have  
 20 found that due process demands that the government must bear the burden to justify civil  
 21 detention from the outset of removal proceedings, not to mention when detention has become  
 22 prolonged. *See e.g., Singh v. Garland*, No. 1:23-cv-01043-EPG-HC, 2023 WL 5836048, \*11  
 23 (E.D. Cal. Sept. 8, 2023); *see also Lopez v. Garland*, 631 F. Supp. 3d 870, 882 n.9 (E.D. Cal.  
 24 2022); *Sho v. Current or Acting Field Off. Dir.*, No. 1:21-CV-01812 TLN AC, 2023 WL  
 25 4014649, \*5 (E.D. Cal. June 15, 2023), *report and recommendation adopted*, No. 1:21-CV-  
 26 1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21, 2023)).

27 80. Due process also requires consideration of alternatives to detention. The primary purpose

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1 of immigration detention is to ensure a noncitizen's appearance during removal proceedings.  
 2 *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are  
 3 alternatives to detention that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538  
 4 (1979). Accordingly, alternatives to detention must be considered in determining whether  
 5 prolonged civil incarceration is warranted.

6 81. In addition, due process requires that the neutral adjudicator consider the length of  
 7 detention when rendering a bond determination. *See Rodriguez v. Robbins*, 804 F.3d 1060, 1089  
 8 (9th Cir. 2015), *rev'd sub nom. Jennings v. Rodriguez*, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018)  
 9 (holding that an "IJ therefore must consider the length of time for which a non-citizen has  
 10 already been detained"); *see also Diouf II*, 634 F.3d at 1091 (explaining that "the due process  
 11 analysis changes" as "the period of confinement grow" and that longer detention requires more  
 12 robust procedural protections).

13 82. Due process likewise requires consideration of a noncitizen's ability to pay a bond.  
 14 "Detention of an indigent 'for inability to post money bail,' is impermissible if the individual's  
 15 'appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Hernandez*, 872 F.3d at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978)  
 16 (en banc)). It follows that—in determining the appropriate conditions of release for immigration  
 17 detainees—due process requires "consideration of financial circumstances and alternatives to  
 18 conditions of release" to prevent against detention based on poverty. *Id.*

## 20 CLAIMS FOR RELIEF

### 21 Count 1

#### 22 **Violation of Fifth Amendment Due Process Clause – As-Applied Challenge to Mandatory** 23 **Detention: Challenge to Detention Authority**

24 83. The foregoing allegations are realleged and incorporated herein.

25 84. "[D]ue process requires that the nature and duration of commitment bear some reasonable  
 26 relation to the purpose for which the individual is committed." *Jackson v. Indiana*, 406 U.S. 715,  
 27 738 (1972). The two permissible purposes of civil immigration detention at to prevent danger to

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1 the community or flight risk. *See Zadvydas*, 533 U.S. at 690.

2 85. Here, however, Mr. Medrano's detention serves neither purpose. Given his growing  
3 family, his religious awakening, and his departure – at great personal risk – from the gang with  
4 which he was affiliated, there is no *legitimate* justification for his detention, rendering his  
5 detention punitive and unconstitutional. This is particularly true where, as here, the District  
6 Attorney who prosecuted and convicted him in 2021 granted him a *Cruz* waiver prior to the  
7 commencement of his sentencing hearing and prison sentence, thus demonstrating that a third  
8 party—and an adversarial one at that—has already made the determination that he is not a flight  
9 risk or danger to the community. The Due Process Clause therefore requires Mr. Medrano's  
10 immediate release.

## 11 **Count 2**

### 12 **Violation of Fifth Amendment Due Process Clause – As-Applied Challenge to Mandatory** 13 **Detention: Entitlement to Bond Hearing**

14 86. The foregoing allegations are realleged and incorporated herein.

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

17 88. The Due Process Clause permits civil immigration detention only where such detention is  
18 reasonably related to the government's interests in protecting the community from danger or  
19 preventing flight and requires strong procedural protections to ensure that a noncitizen's  
20 detention is necessary to serve those interests. Mr. Medrano does not fall within *Demore's*  
21 narrow exception to the general requirement of an individualized hearing to ensure that civil  
22 detention serves legitimate purposes. 538 U.S. at 526.

23 89. The only process Mr. Medrano has available to him is to either request a bond hearing,  
24 which is futile given his statutory ineligibility, or to request discretionary release by ICE, the  
25 agency that saw fit to detain him without bond in the first place.

26 90. Due process requires, at a minimum, an individualized bond hearing before a neutral  
27 decisionmaker in light of Mr. Medrano's profound interest in freedom from incarceration, the

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likelihood that he would be granted bond if provided a bond hearing, and the minimal burden on the government of conducting a bond hearing. *Matthews*, 424 U.S. at 335.

91. Mr. Medrano's detention without an individualized hearing pursuant to Section 1226(c) therefore violates due process. Given the length of his detention and the lack of process provided to him by DHS before his right to freedom from incarceration was eviscerated, the Court should grant Mr. Medrano's outright release. Should this Court find that it cannot directly release him, Mr. Medrano is constitutionally entitled to an individualized bond hearing before a neutral decisionmaker where the government must prove that his detention is justified by clear and convincing evidence of danger or flight risk, even after consideration of whether alternatives to detention could sufficiently mitigate that risk. The Court should conduct the constitutionally compliant bond hearing, as it has the expertise to do so. If the Court is not inclined to conduct such a bond hearing, then a hearing should be conducted by a neutral decisionmaker. Furthermore, if bond is set—as opposed to release on an order of own recognizance or pursuant to alternatives to detention—the Court or, alternatively, a neutral decisionmaker must consider Mr. Medrano's ability to pay the bond when determining the amount of bond to be required.

# **PRAYER FOR RELIEF**

WHEREFORE, Mr. Medrano respectfully requests that this Honorable Court:

1. Assume jurisdiction over this matter;
2. Enjoin Respondents from transferring Mr. Medrano outside the jurisdiction of the San Francisco Field Office and/or the Eastern District of California pending the resolution of this case;
3. Order Respondents to show cause within three days why the petition should not be granted, *see* 28 U.S.C. § 2243;
4. Declare that Mr. Medrano's incarceration by Respondents violates the Due Process Clause of the Fifth Amendment and issue a writ of habeas corpus or injunction and order Mr. Medrano's release;
5. In the alternative, declare that Mr. Medrano's incarceration by Respondents violates

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF  
*MEDRANO V. BONDI, ET AL.*, CASE NO. 25-119

1 the Due Process Clause of the Fifth Amendment and issue a writ of habeas corpus or injunction  
2 and conduct a bond hearing before a neutral decisionmaker to determine whether his continued  
3 detention is necessary where Respondents bear the burden to establish, by clear and convincing  
4 evidence, that his continued detention is necessary;

5 6. In the alternative, declare that Mr. Medrano's detention without a bond hearing  
6 pursuant to Section 1226(c) violates the Due Process Clause of the Fifth Amendment and order  
7 Respondents to release Mr. Medrano from detention within tens days unless Respondents  
8 schedule a hearing before an IJ at which: (1) to continue detention, the government must  
9 establish by clear and convincing evidence that Mr. Medrano presents a risk of current flight or  
10 danger sufficient to justify his continued detention, and the IJ is required to consider whether  
11 alternatives to detention could mitigate any such risks, as well as consider the length of Mr.  
12 Medrano's detention thus far; and (2) if the government cannot meet its burden, the IJ orders Mr.  
13 Medrano's release on appropriate conditions of supervision, taking into account his ability to pay  
14 a bond;

15 7. Award Mr. Medrano his costs and reasonable attorney's fees in this action as  
16 provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable  
17 statute; and

18 8. Grant such further relief as the Court deems just and proper.

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20 Dated: February 10, 2025

/s/Johnny Sinodis  
Johnny Sinodis  
Attorney for Petitioner

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28 PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND  
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**VERIFICATION PURSUANT TO 28 U.S.C. 2242**

I am submitting this verification on behalf of the Petitioner because I am one of  
Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition.  
Based on those discussions, I hereby verify that the factual statements made in the attached  
Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this February 10, 2025, in San Francisco, California.

/s/ Johnny Sinodis  
Johnny Sinodis  
Attorney for Petitioner