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

JOHN DOE,

Petitioner,

vs.

TONYA ANDREWS, Facility Administrator of
Golden State Annex;

POLLY KAISER, Director for the San
Francisco ICE Field Office;

KRISTI NOEM, Secretary of The Department
of Homeland Security;

TODD LYONS, Acting Director for U.S.
Immigration and Customs Enforcement; and

PAMELA BONDI, Attorney General of the
United States,

Respondents, acting in their
official capacity.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. John Doe¹ (“Mr. Doe”) is a longtime resident of the United States who has been detained by U.S. Immigration and Customs Enforcement (“ICE”) at a privately-run prison for over two years. He files the instant petition based on his prolonged civil detention, during which he has not been provided with a bond hearing, in violation of his due process rights.
2. Mr. Doe was forced to flee Jamaica after he was brutally disfigured by members of a gang in Jamaica. He sought safety in the United States and has lived here since 2001. He is now facing deportation as a result of convictions from 2005. Mr. Doe has since served his lengthy sentence and was released from the Federal Bureau of Prisons early. Mr. Doe, rather than returning to live with his U.S. citizen sister, was instead transferred to ICE custody in March 2023. Since that date, no neutral adjudicator has reviewed Mr. Doe’s custody status or determined whether his detention serves any purpose. Without intervention by this Court, Mr. Doe’s continued detention will lack review indefinitely. If his detention remains unreviewed, Mr. Doe faces months, if not years, of further detention without a bond hearing.
3. This continued prolonged detention without a hearing to determine flight risk or danger is a violation of Mr. Doe’s procedural due process rights. Therefore, he respectfully asks this Court to issue a writ of habeas corpus and order his release within 14 days, unless the Government schedules a bond hearing before an immigration judge at which the

¹ In accordance with Local Rule 233(a), Petitioner is filing a motion for administrative relief to proceed anonymously in this matter.

1 Government must justify Mr. Doe's continued detention by clear and convincing
2 evidence.

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4 **JURISDICTION**

- 5 4. Mr. Doe is detained in the custody of Respondents at the Golden State Annex ("GSA")
6 detention facility in McFarland, California.
- 7 5. Jurisdiction is proper for a writ of habeas corpus as governed by Art. 1 Section 9, cl. 2 of
8 the United States Constitution (the Suspension Clause); 28 U.S.C. § 2241 (habeas corpus);
9 and 28 U.S.C. § 1331 (federal question). The instant writ arises under the Due Process
10 Clause of the Fifth Amendment of the U.S. Constitution and the Immigration &
11 Nationality Act ("INA"). This Court may grant relief under the habeas corpus statutes, 28
12 U.S.C. § 2241 *et seq.*, the Declaratory Judgement Act, 28 U.S.C. § 2201 *et seq.*, and the
13 All Writs Act, 28 U.S.C. § 1651.
- 14 6. The federal habeas statute gives rise to this Court's power to decide the legality of Mr.
15 Doe's detention and directs courts to "hear and determine the facts" of a habeas petition
16 and to "dispose of the matter as law and justice require." 28 U.S.C. § 2243. Moreover, the
17 Supreme Court has held that the federal habeas statute codifies the common law writ of
18 habeas corpus as it existed in 1789. *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001) ("[A]t its
19 historical core, the writ of habeas corpus has served as a means of reviewing the legality
20 of Executive detention, and it is in that context that its protections have been strongest.").
- 21 The common law gave courts power to release a petitioner to bail even absent a statute
22 contemplating such release. *Wright v. Henkel*, 190 U.S. 40, 63 (1903) ("[T]he Queen's
23 Bench had, 'independently of statute, by the common law, jurisdiction to admit to bail.'")
24 (quoting *Queen v. Spilsbury*, 2 Q.B. 615 (1898)).
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VENUE

7. Venue is proper for this habeas corpus because it is the District in which Mr. Doe is confined. *See Doe v. Garland*, 109 4th 1188, 1198-99 (9th Cir. 2024) (finding that the proper venue for a habeas petition of a noncitizen held by ICE at a detention center within the Eastern District is the district in which the detention center lies).

EXHAUSTION

8. Mr. Doe should not be required to exhaust administrative remedies. Exhaustion for habeas claims is prudential, not jurisdictional, and therefore it may be waived. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). A prudential exhaustion requirement can be waived if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* at 1000 (citing *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2nd Cir.2003)).
9. First, Mr. Doe attempted to exhaust his administrative remedies as a *pro se* respondent. On May 4, 2023, Mr. Doe requested a hearing before Executive Office for Immigration Review (“EOIR”). Authenticating Declaration of Callard Cowdery (“Cowdery Dec.”) at ¶ 7. On May 9, 2023, the Immigration Judge (“IJ”) held that he did not have jurisdiction over bond for Mr. Doe. *Id.* Mr. Doe has a conviction falling under 8 U.S.C Section 1226(c), the mandatory detention provision, that strips jurisdiction from EOIR to hold bond or custody hearings for people detained under this statutory authority. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 847 (2018) (holding that Section 1226(c) requires detention

1 of noncitizens without a bond hearing until removal proceedings are completed). Thus,
2 as the IJ determined, he lacked jurisdiction to provide Mr. Doe with a bond hearing.

3 10. If Mr. Doe had asked the IJ for a bond hearing as a matter of due process, rather than
4 under statute, this request would be futile as IJs lack to the authority to rule on
5 constitutional questions. *See Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996) (per
6 curiam) (“the inability of the INS to adjudicate the constitutional claim completely
7 undermines most, if not all, of the purposes underlying exhaustion”). Requiring Mr. Doe
8 to exhaust his remedies by filing an appeal to the BIA would be futile, as there is no
9 dispute that the IJ lacked jurisdiction to provide Mr. Doe with a hearing as a statutory
10 matter.
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13 **REQUIREMENTS OF 28 U.S.C. § 2243**

14 11. The Court must grant the petition for writ of habeas corpus or issue an order to show
15 cause (“OSC”) to the Respondents “forthwith,” unless Mr. Doe is not entitled to relief.
16 28 U.S.C. § 2243. If the Court issues an OSC, it must require Respondents to file a return
17 “within three days unless for good cause additional time, not exceeding twenty days, is
18 allowed.” *Id.*

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20 12. Courts have long recognized the significance of the habeas statute in protecting
21 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the
22 most important writ known to the constitutional law of England, affording as it does a
23 swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*,
24 372 U.S. 391, 400 (1963) (emphasis added).
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26 13. Habeas corpus must be expeditiously adjudicated, as “the statute itself directs courts to
27 give petitions for habeas corpus ‘special, preferential consideration to insure expeditious
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1 hearing and determination.”” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal
2 citations omitted). In *Yong*, the court warned against any action creating the perception
3 “that courts are more concerned with efficient trial management than with the vindication
4 of constitutional rights.” *Id.*

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6 14. As such, Mr. Doe asks the Court to issue an OSC with the Government’s return due no
7 later than twenty days after its issuance.

8 **PARTIES²**

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10 15. Mr. Doe is currently detained by Respondents pending his removal proceedings. He has
11 been incarcerated by Respondents since March 2023 without any neutral adjudicator
12 reviewing his custody status.

13 16. Respondent Tonya Andrews is the present Facility Administrator (and *de facto* warden)
14 of GSA in McFarland, California. Her position is tasked with overseeing operations at
15 GSA, where Mr. Doe is presently detained. In *Doe v. Garland*, the Ninth Circuit held
16 that the proper Respondent in a habeas petition for a noncitizen held by ICE at a privately
17 run facility is the “immediate” and legal custodian of the facility. 109 F.4th 1188, 1198-
18 99 (9th Cir. 2024). She is named in this petition in her official capacity.

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20 17. Respondent Polly Kaiser is the acting Field Office Director for the San Francisco Field
21 Office of ICE Enforcement and Removal Operations (“ERO”). In this position,

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25 ² Pursuant to the Ninth Circuit’s recent decision in *Doe v. Garland*, 109 F.4th 1188, 1197 (9th
26 Cir. 2024), Tonya Andrews is the proper respondent because she is the *de facto* warden of the
27 facility at which Petitioner is detained. A petition for *en banc* rehearing is pending in that case,
28 however, so the other respondents are named herein to ensure effective relief and continued
jurisdiction in this case.

Respondent Kaiser is the federal official who is most directly responsible for overseeing GSA and therefore he is the local ICE official who has legal custody of Mr. Doe. He is named in his official capacity.

18. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”) and, thus, her responsibilities include the oversight of DHS and its sub-agency ICE. Therefore, she has the final responsibility for the detention of noncitizens in immigration custody and is the legal custodian of Mr. Doe. She is named in her official capacity.

19. Respondent Todd Lyons is the Acting Director for ICE and holds responsibility for ICE’s policies, practices, and procedures, including those that related to the detention of noncitizens. He is named in his official capacity.

20. Respondent Pamela Bondi is the Attorney General of the United States and, as such, is the head of the Department of Justice (“DOJ”), which includes the Board of Immigration Appeals (“BIA”) and EOIR. She holds the authority to oversee the adjudication of removal proceedings and bond hearings. Through regulation, she has delegated this authority to immigration judges at EOIR and judges at the BIA. She is listed in her official capacity.

STATEMENT OF FACTS

Lengthy Residence and Ties to the United States

21. Mr. Doe is forty-eight-year-old man from Jamaica. *See* Dec. Cowdery at Exhibit (“Exh.”) G, Declaration of Mr. Doe. Growing up in a rough neighborhood, Mr. Doe felt compelled to join a gang at a young age to seek protection for his family. *Id.* ¶ 2. After seeing the violence involved in that life, he attempted to leave the gang; however, his

attempts were met with physical beatings and threats of death. *Id.* ¶ 3. After his parents went to the police, these threats only increased and culminated in a physical altercation in which Mr. Doe was severely beaten. *Id.* ¶ 4. This incident has left Mr. Doe with physical scars to this day. *Id.*

22. Mr. Doe was eventually able to flee to the United States in the early 2000's to join his U.S. citizen siblings and seek safety. Exh. G, Declaration of Mr. Doe at ¶ 1. Mr. Doe's transition to life in the United States was not easy – he struggled to secure employment and support himself. *Id.* This led him to turn to “friends” from Jamaica who involved him in the distribution of drugs. *Id.*

23. Mr. Doe is deeply remorseful for his actions and has since made efforts to educate himself and ensure he will never take similar actions again. Exh. G at ¶ 3, 5.

Criminal Convictions

24. On November 22, 2004, Mr. Doe was arrested. *Id.* He plead guilty to 21 U.S.C. § 846, conspiracy to distribute cocaine and 18 U.S.C. § 822(g)(5) possession of a firearm. Cowdery Dec. at ¶ 5. On July 27, 2005, Petitioner was sentenced in United States District Court, Eastern District of Virginia to three hundred and twelve (312) months. *Id.*

Rehabilitation & Early Release

25. While serving his sentence in federal custody, Mr. Doe enrolled in courses, including a drug program, where he was educated for the first time about the harm that drugs can cause. Exh. G at ¶ 2. This course completely changed Mr. Doe's outlook and he was able to fully grasp the weight of his actions and affirm to himself that he would not be involved in the distribution of drugs again. *Id.* In addition to this course, Mr. Doe took further

1 courses to help develop skills to increase his prospects of employment and make positive
2 contributions to society after his release. *Id.* at ¶ 4.

3 26. Mr. Doe repents deeply for his actions that led to his convictions and he aspires to have
4 the opportunity to counsel others so that the younger generation can learn from his
5 mistakes without having to repeat similar mistakes themselves. *Id.* at ¶ 3, 5.

6 27. After serving two hundred and fifty-eight (258) months, Mr. Doe was released early from
7 federal custody for good behavior. Cowdery Dec. at ¶ 4. On the date of his scheduled
8 release in March 2023, he was arrested by ICE and transferred to immigration detention.
9 *Id.* He has been held continuously in immigration custody since that time. *Id.*

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12 **Removal Proceedings**

13 28. On March 20, 2023, ICE initiated removal proceedings against Mr. Doe, charging him as
14 inadmissible. Exh. A, NTA. Mr. Doe began his removal proceedings *pro se*. Cowdery
15 Dec. at ¶ 6. On April 24, 2023, he filed an I-589 application for asylum, withholding of
16 removal, and protection under the Convention Against Torture. *Id.*

17 29. While *pro se*, he further requested a bond hearing before the Immigration Judge (“IJ”) on
18 May 4, 2023. *Id.* at ¶ 8. On May 9, 2023, the IJ ruled that he did not have jurisdiction to
19 provide a bond hearing. *Id.*

20 30. On September 7, 2023, Mr. Doe’s prior counsel entered his appearance to represent him
21 before the Immigration Court. *Id.* at ¶ 9. The Immigration Court held an individual merits
22 hearing on October 31, 2023. *Id.* at ¶ 10. That day, the IJ denied Mr. Doe’s application for
23 protection under the Convention Against Torture and ordered him removed. Exh. B, Order
24 of Immigration Judge.
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1 31. Mr. Doe timely appealed the decision to the BIA. Cowdery Dec. at ¶ 10. His prior counsel
2 attempted to withdraw his appearance on February 14, 2024 without meeting the briefing
3 schedule issued by the BIA. *Id.* On March 11, 2024, Petitioner requested that the BIA reset
4 his briefing schedule to allow him to proceed *pro se*. *Id.*

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6 32. Undersigned counsel entered her appearance for Respondent on March 20, 2024. *Id.* at ¶
7 12. On April 25, 2024, undersigned counsel filed a brief to the BIA along with a Motion
8 to Remand based on ineffective assistance of counsel and new evidence, seeking an
9 opportunity to fully present Mr. Doe’s case for relief after his prior counsel’s actions
10 prevented Mr. Doe from putting forth all the available evidence and facts supporting his
11 application. *Id.* at ¶ 13. On July 24, 2024, the BIA denied Petitioner’s motion and
12 dismissed his appeal. Exh. C, Order of the BIA.

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14 33. Mr. Doe filed a Petitioner for Review (“PFR”) *pro se* at the Ninth Circuit on August 1,
15 2024 with a motion to stay his removal. The PFR remains pending at this time with a
16 judicial stay in place. Exh. D, Ninth Circuit Docket for Mr. Doe’s Petition for Review.

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18 34. As of this filing, DHS and ICE have civilly incarcerated Mr. Doe for 807 days without a
19 neutral evaluation of whether his detention serves a valid civil purpose. He will remain
20 detained, with no clear end date, absent intervention by this Court.

21 **LEGAL FRAMEWORK**

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23 35. Mr. Doe holds a strong liberty interest in freedom from the physical confinement that he
24 has been subjected to for years. “It is well established that the Fifth Amendment entitles
25 [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S.
26 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from
27 imprisonment—from government custody, detention, or other forms of physical
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restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.”). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *Id.* at 721 (Kennedy, J., dissenting) (“both removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious”).

Detention has become unreasonably prolonged under the *Mathews* balancing test

36. Mr. Doe’s detention since March 2023, without any individualized neutral review, violates his right to procedural due process. *See Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018).

37. Since *Jennings v. Rodriguez*, 138 S.Ct. 830, 837 (2018), numerous courts have evaluated as-applied constitutional challenges to prolonged immigration detention using the *Mathews v. Eldridge*, 424 U.S. 319 (1976) test, which balances (1) the private interest threatened by government action; (2) the risk of erroneous deprivation of such interest, and the probable value of additional procedural safeguards; and (3) the government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *See, e.g., Diep v. Wofford*, No. 1:24-CV-01238-SKO (HC), 2025 WL 604744, at *4 (E.D. Cal. Feb. 25, 2025) (applying the Mathews test and granting bond hearing for individual held in prolonged detention under § 1226(c)); *M.R.v. Warden, Mesa Verde Detention Center*, No. 1:24-CV-00998-EPG-HC, 2025 WL 1158841, at *7 (E.D. Cal. Apr. 21, 2025) (same); *Riego v. Warden Scott*, No. 1:24-CV-01162-SKO (HC), 2025 WL 660535, at *3 (February 28, 2025) (same); *Eliazar G.C. v. Wofford*, No. 1:24-CV-01032-EPG-HC, 2025 WL 711190, at *6

(E.D. Cal. Mar. 5, 2025) (same); *Sho v. Acting Field Office Director*, 1:21-cv-01812 TLN AC, 2023 WL 4014649, at *3-5 (E.D. Cal. June 15, 2023) (same).

1. Mr. Doe has a significant private interest in liberty.

38. The first prong of the *Mathews* test requires assessment of the private interest that is threatened by government action. 424 U.S. 319, 335 (1976).

39. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint” is an “indisputably” significant interest. *Sho*, 2023 WL 4014649, at *4 (quoting *Zavydys v. Davis*, 533 U.S. 678, 690 (2001)). This interest is “unquestionably substantial.” *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011).

40. Moreover, this interest is heightened where petitioners have faced lengthy periods of detention. *See, e.g., Martinez Leiva v. Becerra*, 2023 WL 3688097 (N.D. Cal. May 26, 2023) at *7 (finding a heightened interest after 20 months of detention); *Sho*, 2023 WL 4014649, at *4 (considering approximately 28 months of detention to heighten the interest). *See also Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 776 (N.D. Cal. 2019) (strong interest after 22 months of detention); *Jimenez v. Wolf*, 2020 WL 510347 (N.D. Cal. Jan. 20, 2020) (strong interest after one year of detention).

41. Mr. Doe has been held in custody without review by a neutral adjudicator for approximately 26 months, therefore heightening his already “indisputably” significant interest. *Sho*, 2023 WL 4014649, at *4. Thus, this factor weighs heavily in Mr. Doe’s favor.

42. Moreover, Mr. Doe has been subject to punitive conditions while in ICE custody that “multiply the burden” on Mr. Doe’s liberty and further compel his strong interest in freedom from government detention. *See Doe v. Becerra*, 732 F. Supp. 3d 1071, 1089

(N.D. Cal. 2024) (discussing conditions at GSA, the same facility where Mr. Doe is confined). Mr. Doe is held in conditions that are equivalent to criminal corrections, and the facility that restrains his liberty has been explicitly reprimanded for deplorable conditions, including ineffective medical care and other punitive conditions.³ “[T]he government's choice to detain noncitizens like Mr. Doe in a crowded facility, with operations outsourced to a private contractor, informs the due process consideration of how long is too long.” *Doe*, 732 F. Supp. 3d at 1089. Moreover, deplorable conditions including “inadequate healthcare including mental healthcare, overuse of solitary confinement, poor quality and safety of food, air quality, presence of mold, lack of consistent access to clothing and shoes, unwarranted use of force by staff, and sexual assault and harassment” have all been documented at the facility. *See* Exh. H, Declaration of Priya Patel. Mr. Doe himself has experienced firsthand delay in seeking medical care, as he has been unable to receive a medicinal lotion. In fact, the facility found his grievance for this issue to be founded, but the only solution offered by the facility was for Mr. Doe to wait. *See* Exh. I, Mr. Doe’s Medical Complaint. These conditions, which fall below the

³ Last month, the California Department of Justice released a report condemning the conditions at GSA, among other facilities, stating that the facility does not comply with ICE’s own standards and highlighting issues including over-discipline, delays in adequate medical care, *inter alia*. *See* Press Release, “Attorney General Bonta Sounds the Alarm, Releases Fourth Immigration Detention Facilities Report,” dated April 28, 2025, available at: <https://oag.ca.gov/news/press-releases/attorney-general-bonta-sounds-alarm-releases-fourth-immigration-detention>. U.S. Senator Padilla, Representative Lofgren, and other California representatives have drawn attention to disturbing detention conditions and repeatedly called for ICE to end the contract with Golden State Annex. *See* Press Release, “Lawmakers Reiterate Their Call to Close the Detention Centers,” dated October 8, 2024, available at: <https://lofgren.house.gov/media/press-releases/lofgren-padilla-ca-dems-request-congressional-status-conference-ca-detention>.

1 government's own proposed standards, heighten the strong interest Mr. Doe holds in
2 liberty after over two years of enduring these carceral settings.

3 **2. The value of the procedural safeguard of a bond hearing is high**

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- 5 1. Next, the Court should consider the risk of erroneous deprivation of the interest and the
6 probable value of the additional safeguards requested, both of which weigh heavily in
7 favor of Mr. Doe. *Mathews*, 424 U.S. at 335.
- 8 2. "In evaluating the risk of erroneous deprivation in the context of noncitizen detention, the
9 Ninth Circuit has looked to whether the detainee has a statutory right to procedural
10 protections, such as individualized custody determinations and the right to seek additional
11 bond hearings throughout detention." *Jensen v. Garland*, No. 5:21-cv-01195-CAS (AFM),
12 2023 WL 3246522, at *6 (C.D. Cal. May 3, 2023) (citing *Rodriguez Diaz v. Garland*, 53
13 F.4th 1189,1209–10 (9th Cir. 2021).
- 14 3. Mr. Doe is subject to detention pursuant to 8 USC § 1226(c). This provision provides "no
15 mechanism for a detainee's release, nor for individualized review of the need for detention."
16 *Black v. Decker*, 103 F.4th 133, 152 (2d Cir. 2024). Additionally, the statute fails to
17 consider timing of when the crime was committed, the nature of the offense, or community
18 ties. *Id.*
- 19 4. Because the statutory provision under which he is detained lacks a mechanism for review,
20 throughout his 26 months of detention, Mr. Doe has never had review of his custody
21 determination by a neutral adjudicator to decide if his detention serves any meaningful
22 purpose. On May 3, 2023, he requested review by the IJ, but the IJ found he did not have
23 jurisdiction to review Mr. Doe's custody and therefore was unable to provide Mr. Doe a
24 bond hearing due to statutory limitations on the IJ's jurisdiction.
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5. Meanwhile, Mr. Doe’s sole convictions in the United States occurred over twenty years ago. Moreover, he has engaged in extensive rehabilitation, both in the form of serving his imposed sentence and the personal enrichment he undertook during that time, and is eager to rejoin his U.S. citizen sister – facts which have never been presented to a neutral adjudicator. *See* Exh. G, Declaration of Mr. Doe. As such, given Mr. Doe’s rehabilitation and the lack of review of his custody, the value of a bond hearing is high, as is the risk of erroneous deprivation.

3. Respondents have no valid interest that a bond hearing would harm

6. Finally, the third factor considered under *Mathews* - the government’s interest - is weak. *Mathews*, 424 U.S. at 335. Here, the interest at stake for the government is “the ability to detain [Mr. Doe] *without providing him a bond hearing*,” not whether the government may continue to detain him in general. *Lopez Reyes*, 362 F. Supp. 3d at 777; *see also Diep v. Wofford*, 2025 WL 604744, at *5 (citing *Zagal-Alcaraz v. ICE Field Office Director*, 2020 WL 1862254, at *7 (D. Or. 2020) (collecting cases)).

7. Here, Mr. Doe seeks a bond hearing, which does not impinge on any government interest. Courts have found that bond hearings require a “minimal cost” to conduct. *Zagal-Alcaraz*, 2020 WL 1862254, *7 (quoting *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019)) (concluding that “the government’s interest is not as weighty as Petitioner’s”). Therefore, conducting a bond hearing regarding Mr. Doe’s detention would cause no harm to the government’s interest.

8. As such, in assessing the *Mathews* factors, all factors weigh heavily in Mr. Doe’s favor, entitling him to an individualized bond hearing before an IJ for the first time.

Standards for Bond Hearing to Comply with Due Process

9. Due Process requires that the government bear the burden in a bond hearing before a neutral adjudicator to prove that Mr. Doe is a flight risk or a danger to the community by clear and convincing evidence. The Ninth Circuit has placed the burden on the government to justify a noncitizen's detention by clear and convincing evidence that the noncitizen is a present danger to the community or a flight risk. *Singh*, 638 F.3d at 1204. The placement of the burden on the government by district courts in the Eastern District has been consistent. *See, e.g., Diep*, 2025 WL 604744, at *5; *Lopez Reyes*, 362 F. Supp. 3d at 775; *Martinez Leiva*, 2023 WL 3688097 at *9; *Jimenez*, 2020 WL 510347 at *4.
10. Moreover, Due Process requires the consideration of "financial circumstances and alternative conditions of release." *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017).

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

1. Petitioner re-alleges and incorporates by reference the paragraphs above.
2. 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.
3. To justify Petitioner's ongoing prolonged detention, due process requires that the government establish, at an individualized hearing before a neutral decisionmaker, that Petitioner's detention is justified by clear and convincing evidence of flight risk or danger, even after considering whether alternatives to detention could sufficiently mitigate that risk. *See Singh*, 638 F.3d at 1204 ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake...are both

particularly important and more substantial than mere loss of money.”) (internal quotation marks omitted).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Issue a Writ of Habeas Corpus and order Petitioner’s release within fourteen (14) days, unless the Government schedules a hearing before an immigration judge wherein: (1) to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner’s release would present; and (2) if the government cannot meet its burden, the immigration judge order Petitioner’s release on appropriate conditions of supervision, taking into account Petitioner’s ability to pay a bond;
- 3) Issue a declaration that Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment;
- 4) Award reasonable costs and attorney fees under the Equal Access to Justice Act (“EAJA”), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grant such further relief as the Court deems just and proper.

Dated: June 4, 2025

/s/ Callard E. Cowdery
Attorney for the Petitioner

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. As the Petitioner's attorney, 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.

Dated: June 4, 2025

/s/ Callard E. Cowdery
Attorney for the Petitioner