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Mission Action

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**Pro Hac Vice Application Forthcoming*

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**Pro Hac Vice Application Pending*

Pro Bono Attorneys for Petitioner

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

Ursula Karina Gomez Velazquez,

Petitioner,

v.

Fred Figueroa, in his official capacity, Warden
at Eloy Detention Center;

John Cantu, in his official capacity, Director of
Phoenix Field Office, U.S. Immigration and
Customs Enforcement;

Kristi Noem, in her official capacity, Secretary
of the Department of Homeland Security;

Todd M. Lyons, in his official capacity, Acting
Director for U.S. Immigration and Customs
Enforcement; and

Pamela Bondi, in her official capacity, Attorney
General of the United States.

Respondents.

Case No.: _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

ORAL ARGUMENT
REQUESTED

Expedited Hearing Requested

PETITION FOR WRIT OF HABEAS CORPUS

Gomez Velazquez v. Figueroa, et al.

INTRODUCTION

1
2 1. Ursula Karina Gomez Velazquez (“Ms. Gomez Velazquez”) came to the United
3 States in 1988 as a small child. She grew up in San Pedro, California, where her family
4 continues to live today. The United States is the only home Ms. Gomez Velazquez has
5 ever known.
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7 2. As a teenager, Ms. Gomez Velazquez was abused and trafficked by Gary, a man
8 ten years her senior. In 2003, Ms. Gomez Velazquez was present during an altercation in
9 which Gary was shot and killed. She was held criminally responsible for Gary’s death
10 and ultimately sentenced to 21 years in state prison.
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12 3. While incarcerated, Ms. Gomez Velazquez committed herself to healing from her
13 past. She took rehabilitation and self-education courses that helped her gain a better
14 understanding of her past, including her own role in the events that landed her in prison.
15 The courses she took, as well as her own focus on self-improvement, helped her develop
16 the tools necessary to move forward as a positive and contributing member of her
17 community.
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20 4. Today, Ms. Gomez Velazquez is an advocate for herself and others like her:
21 victims of human trafficking and abuse, incarcerated women, and immigrants. Despite
22 spending the last two decades in confinement, she developed and nurtured meaningful
23 relationships with family and community on the outside and has become a mentor to
24 dozens of young women. Ms. Gomez Velazquez is eager to return home to her family,
25 and for the first time in over twenty years, be free from the constraints of criminal and
26 civil incarceration.
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1 5. Ms. Gomez Velazquez hoped to return home after successfully completing her
2 criminal sentence, but that opportunity never came. On July 31, 2024, upon completion
3 of her criminal sentence, Ms. Gomez Velazquez was transferred directly from California
4 state criminal custody to Immigration and Customs Enforcement (“ICE”). She was
5 detained at the Northwest ICE Processing Center (“NWIPC”) in Tacoma, Washington for
6 several months, until April 15, 2025, when she was transferred, without notice or
7 explanation, to Arizona in the middle of the night. She has been detained at the Eloy
8 Detention Center in Eloy, Arizona ever since. As of August 7, 2025, Ms. Gomez
9 Velazquez has been detained for 372 days.

12 6. . Without this court’s intervention, she faces the prospect of several more months,
13 if not years, of unreviewed civil detention as she continues to fight her removal to Mexico.

15 7. Ms. Gomez Velazquez’s mental and physical health have substantially
16 deteriorated since entering ICE custody, and especially since being transferred to Eloy.
17 She is facing dehumanizing conditions of confinement and inadequate access to
18 healthcare.

20 8. Ms. Gomez Velazquez’s prolonged detention violates the Fifth Amendment’s
21 guarantee of substantive due process. Civil detention is unconstitutionally punitive if it is
22 “‘excessive in relation to [its non-punitive] purpose,’ or is ‘employed to achieve
23 objectives that could be accomplished in so many alternative and less harsh methods[.]’”
24 *Jones v. Blanas*, 393 F.3d 918, 934 (9th Cir. 2004) (internal citations omitted). Ms.
25 Gomez Velazquez’s prolonged detention of 12 months and counting, under conditions
26 worse than criminal incarceration, has become punitive. No neutral adjudicator has ever
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1 evaluated whether Ms. Gomez Velazquez is a flight risk or danger to the community.
2 Even if this Court did find that Ms. Gomez Velazquez posed some degree of risk, her
3 continued physical custody is excessive in relation to any risk she poses because
4 appropriate conditions of release can successfully mitigate any such risk. Accordingly,
5 this Court must issue a writ of habeas corpus and order Ms. Gomez Velazquez's release.
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7 9. In the alternative, Ms. Gomez Velazquez's prolonged detention without any
8 individualized determination of whether she poses a flight risk or danger violates her
9 procedural due process rights. Immigration detention without a bond hearing under 8
10 U.S.C. § 1226(c) violates due process "when it becomes unreasonably prolonged in
11 relation to its purpose." *Reid v. Donelan*, 17 F.4th 1, 8 (1st Cir. 2021); *see also Rodriguez*
12 *v. Marin*, 909 F.3d 252, 256-57 (9th Cir. 2018) (expressing "grave doubt[] that any statute
13 that allows for arbitrary prolonged detention without any process is constitutional," and
14 that "[a]rbitrary civil detention is not a feature of our American government."). This Court
15 should adhere to the national consensus that has emerged in the past several years among
16 district courts around the country: a person who has been detained without an
17 individualized inquiry for a period of a year or more—like Ms. Gomez Velazquez—is
18 entitled to an evidentiary hearing at which the government must justify her ongoing
19 detention by clear and convincing evidence. *See Singh v. Holder*, 638 F.3d 1196, 1205
20 (9th Cir. 2011); *Black v. Decker*, 103 F.4th 133, 157-58 (2d Cir. 2024); *Rajnish v.*
21 *Jennings*, No. 20-cv-07819, 2020 WL 7626414 (N.D. Cal. Dec. 22, 2020); *see also*
22 *Jimenez v. Wolf*, No. 19-cv-07996-NC, 2020 WL 510347, *3 (N.D. Cal. Jan. 30,
23 2020) (finding petitioner "undoubtedly has a strong liberty interest to be free from
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PETITION FOR WRIT OF HABEAS CORPUS

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1 arbitrary or unreasonable imprisonment” where he had been detained for one year without
2 a bond hearing).

3 JURISDICTION

4 10. Ms. Gomez Velazquez is detained in the custody of Respondents at the Eloy
5 Detention Center in Eloy, Arizona.

6 11. Jurisdiction is proper over a writ of habeas corpus pursuant to Art. 1 § 9, cl. 2 of
7 the United States Constitution (the Suspension Clause); 28 U.S.C. § 2241 (habeas
8 corpus); and 28 U.S.C. § 1331 (federal question).

9 12. This action arises under the Due Process Clause of the Fifth Amendment of the
10 United States Constitution. This Court may grant relief under the habeas corpus statutes,
11 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the
12 All Writs Act, 28 U.S.C. § 1651. This Court also has broad equitable powers to grant
13 relief to remedy a constitutional violation. *See Roman v. Wolf*, 977 F.3d 935, 941 (9th
14 Cir. 2000).

15 13. Congress has preserved judicial review of challenges to prolonged immigration
16 detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C.
17 §§ 1226(e), 1252(b)(9) do not bar review of legal challenges to prolonged immigration
18 detention).

19 VENUE

20 14. Venue is proper in this district under 28 U.S.C. § 1391 because at least one
21 Respondent resides in this district and because Ms. Gomez Velazquez is presently
22 detained under the authority of the Director of the Phoenix ICE Field Office. The Eloy
23

1 Detention Center is operated by CoreCivic, a private company, and controlled by the
2 Phoenix Field Office of ICE Enforcement and Removal Operations (“ERO”). The
3 Phoenix Field Office of ICE ERO is responsible for carrying out ICE’s detention
4 operations at the Eloy Detention Center and for adjudicating requests for release from
5 those detained there.
6

7 15. Because Ms. Gomez Velazquez is detained in Pinal County, assignment to the
8 Phoenix Division of this Court is proper under Local Rule 77.1.
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10 PARTIES

11 16. Petitioner Ursula Karina Gomez Velazquez (“Ms. Gomez Velazquez”) is currently
12 detained by Respondents pending removal proceedings. She has been detained since July
13 31, 2024 without any individualized inquiry into ICE’s justification for her ongoing
14 detention. In the instant petition, she challenges her “present physical confinement.” *Doe*
15 *v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024).
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17 17. Respondent Fred Figueroa is the warden at the Eloy Detention Center. As warden
18 of the detention center in which Ms. Gomez Velazquez is confined, Mr. Figueroa is Ms.
19 Gomez Velazquez’s immediate custodian. He is named in his official capacity.
20

21 18. Respondent John Cantu is the Field Office Director for the Phoenix Field Office
22 of ICE ERO. Mr. Cantu resides in this district for venue purposes because his official
23 duties are performed in this district. *See Trout v. County of Madera*, No. 21-cv-06061-
24 PJH, 2022 WL 2479156, at *7 (N.D. Cal. July 6, 2022). Mr. Cantu is the local ICE official
25 with legal custody of Ms. Gomez Velazquez. He is named in his official capacity.
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1 19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
2 (“DHS”), and is responsible for overseeing the Department and its sub-agency, ICE, and
3 has ultimate responsibility for the detention of noncitizens in civil immigration custody.
4 Secretary Noem is a legal custodian of Ms. Gomez Velazquez. She is named in her official
5 capacity.
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7 20. Respondent Todd M. Lyons is the Acting Director Performing the Duties of the
8 Director for ICE. Respondent Lyons is responsible for ICE’s policies, practices, and
9 procedures, including those relating to the detention of immigrants. Respondent Lyons is
10 a legal custodian of Ms. Gomez Velazquez. He is named in his official capacity.
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12 21. Respondent Pamela Bondi is the Attorney General of the United States and the
13 head of the Department of Justice (“DOJ”), which encompasses the Board of Immigration
14 Appeals (“BIA”) and immigration judges as part of its sub-agency, the Executive Office
15 for Immigration Review (“EOIR”). She is empowered to oversee the adjudication of
16 removal and bond hearings and by regulation has delegated that power to the nation’s
17 immigration judges and the BIA. She is sued in her official capacity.
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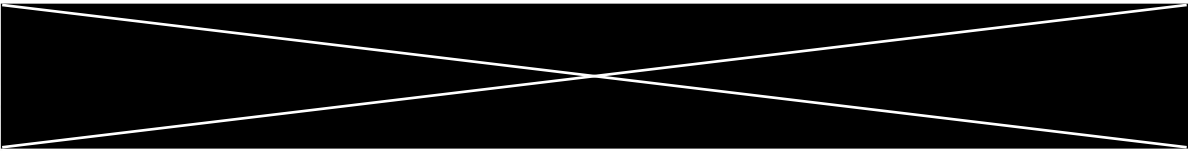
20 **STATEMENT OF FACTS**

21 **I. Ms. Gomez Velazquez’s Early Life in Mexico and the United States.**

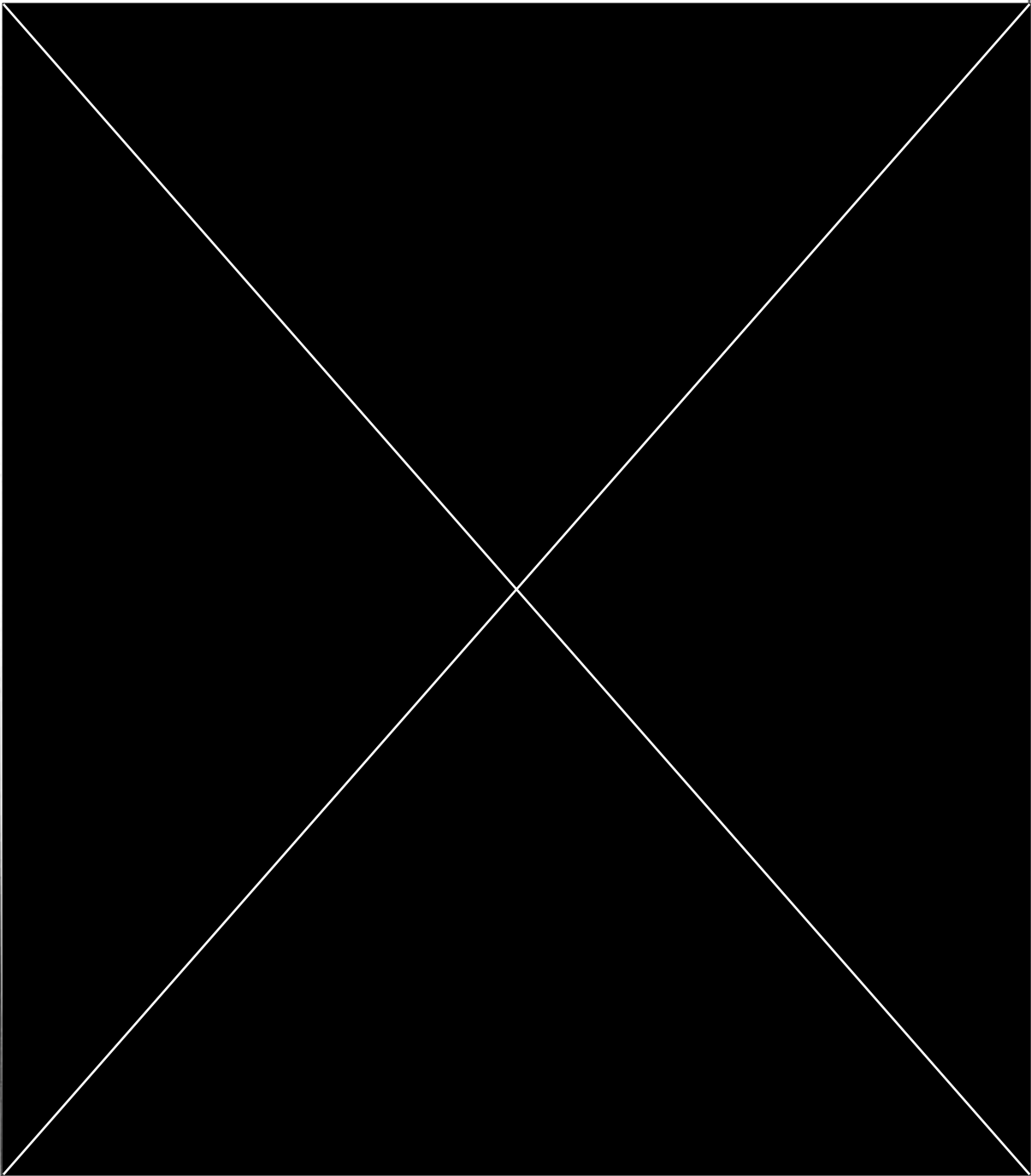
22 22. Ms. Gomez Velazquez was born in Mexico City, Mexico on .
23 She spent the first few years of her life in Mexico before coming to the United States
24 when she was around five years old. Because she was so young when she left, Ms. Gomez
25 Velazquez remembers little about her life in Mexico. Exhibit (“Exh.”) A, Declaration of
26 Ursula Karina Gomez Velazquez (“UKGV Decl.”), ¶¶ 1-2.
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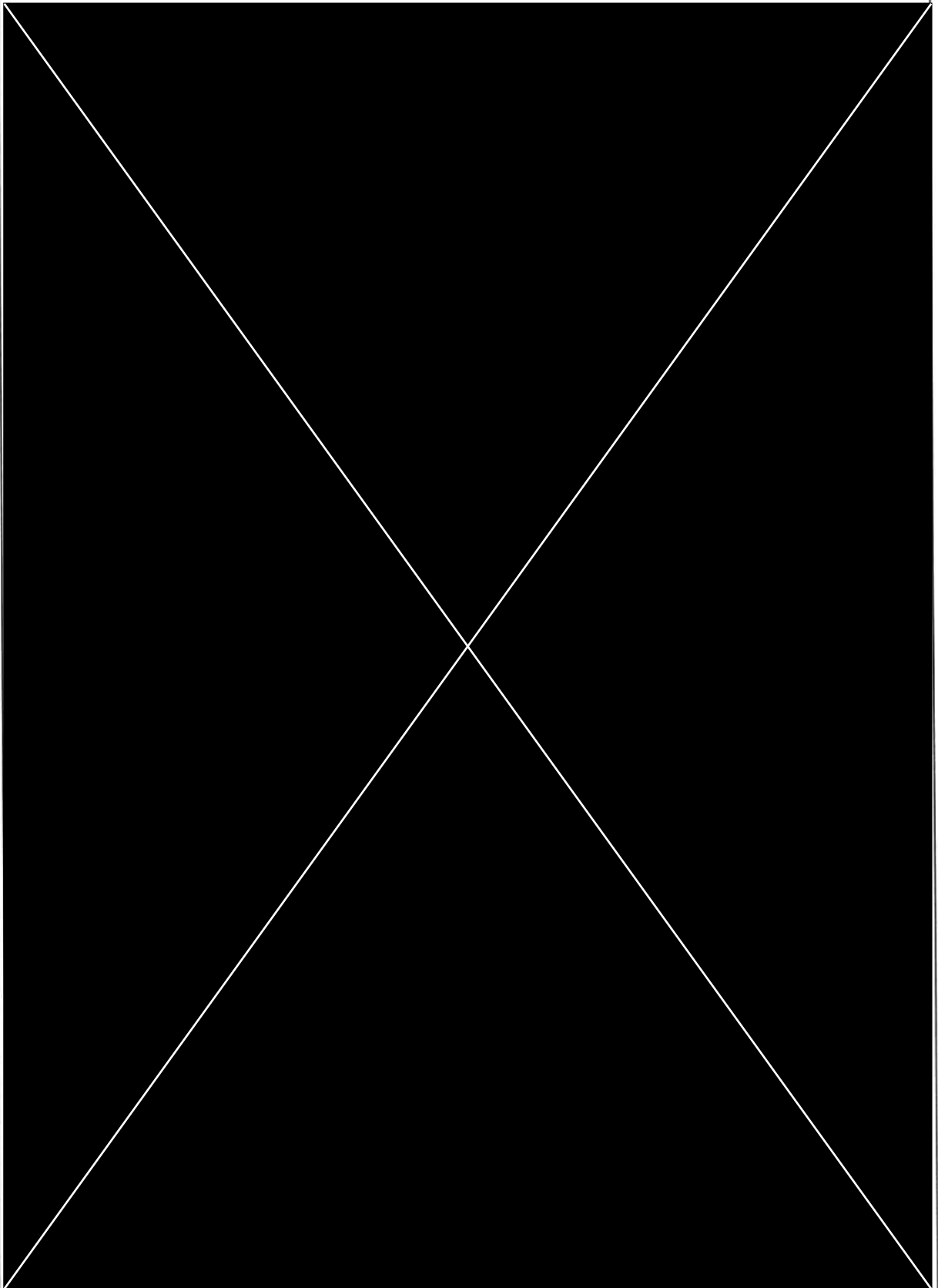
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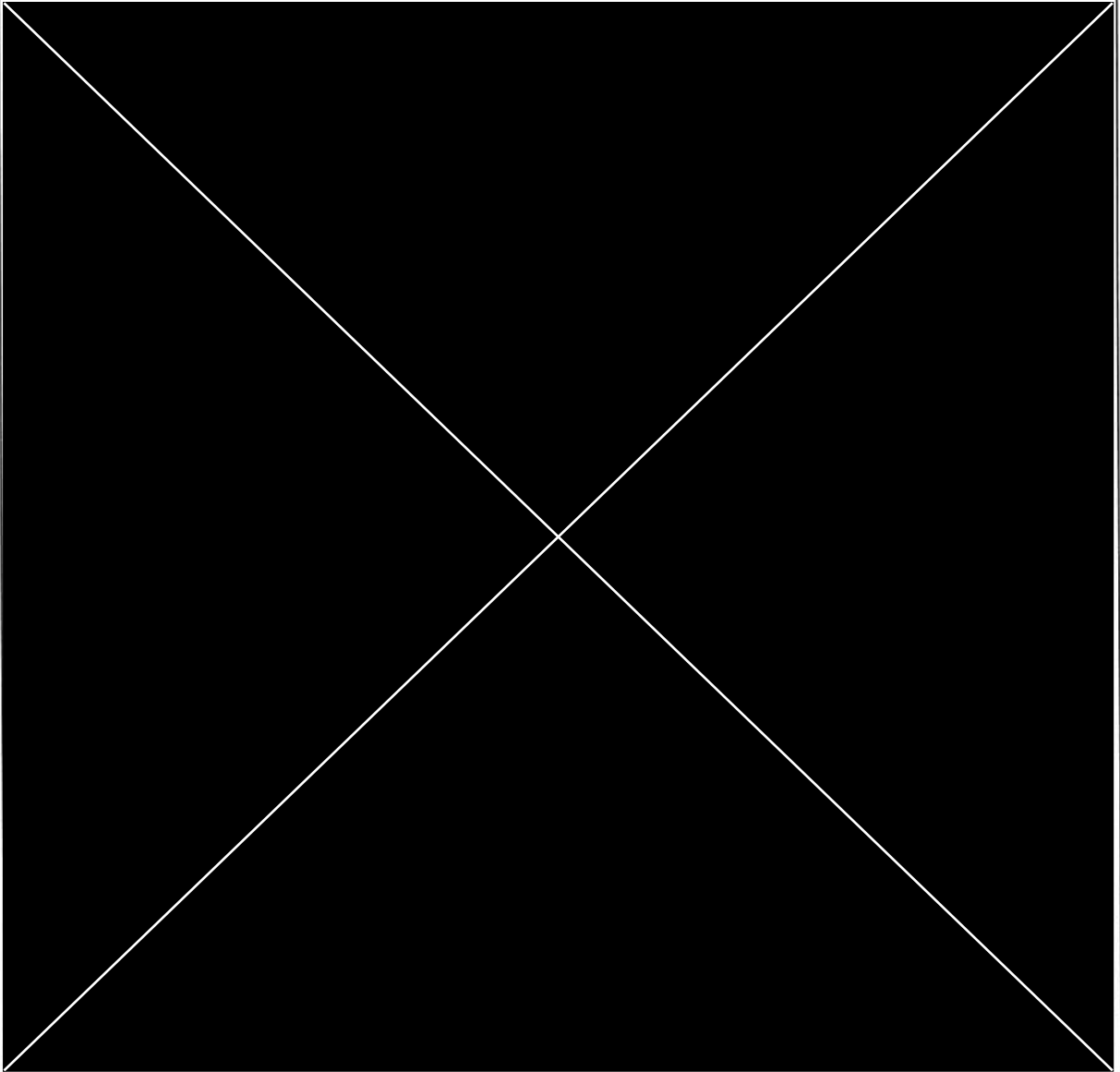
II. Ms. Gomez Velazquez's abusive relationship with a man 10 years her senior



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III. Ms. Gomez Velazquez was held criminally responsible for her abuser's death

35. In the early morning hours of June 22, 2003, Gary demanded that Ms. Gomez Velazquez accompany him to confront an individual whom Gary believed had improperly repaired a laptop he had given him. *Id.* at ¶¶ 35-36. On the way, Gary picked up his friend Chris. *Id.* at ¶ 36. Ms. Gomez Velazquez was unaware that Gary and Chris were armed and that Gary intended to rob this individual. *Id.* She had not slept for the last five to

1 seven days, and her body was weak and shaking. *Id.* at ¶ 37. After entering the individual's
2 trailer, Gary pulled out a gun and a conflict ensued. *Id.* at ¶¶ 37-38. Chris pushed Ms.
3 Gomez Velazquez into a back room of the trailer where she was alone and could not see
4 anything. *Id.* at ¶ 38. She heard a lot of yelling, commotion, and then a series of gunshots.
5
6 *Id.* When she peeked into the main room, she could only see the shooter's back. It was
7 not Gary. *See id.* Then, she heard the shooter say something like "Where did that girl go?
8 I need to find her." *Id.* She panicked because she knew she would be next. *Id.* Ms. Gomez
9 Velazquez pressed herself against a wall of the back room and somehow, when the
10 shooter scanned the room, he did not see her and left the trailer. *Id.*

12 36. As Ms. Gomez Velazquez tried to escape out of the back of the trailer, she saw
13 Gary stumble out of the front and fall. He said something along the lines of "get out of
14 here." *Id.* at ¶ 39. In a panic, Ms. Gomez Velazquez jumped into a back neighbor's yard.
15
16 *Id.* She had no idea Gary had died. *Id.*

18 37. Ms. Gomez Velazquez was criminally prosecuted alongside Chris. *See id.* at ¶ 40.
19 They were both found guilty by jury of first-degree murder, first degree robbery while
20 acting in concert, and first-degree residential burglary. *Id.* Ms. Gomez Velazquez was
21 sentenced to serve life without the possibility of parole for her murder conviction. *Id.*

23 38. However, on appeal in 2006, Ms. Gomez Velazquez's murder conviction was
24 reversed due to a jury instruction error that may have led jurors to mistakenly find
25 defendants guilty of first-degree murder based on the felony-murder doctrine. *See People*
26 *v. Gomez*, No. B180504, 2006 WL 3060051, *7-*8 (Cal. Ct. App. Oct. 30, 2006). The
27 appellate court affirmed her convictions for first-degree robbery and first-degree
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1 residential burglary and remanded her case back to the trial court for further proceedings
2 on the murder charge. *Id.* at *16.

3 39. On remand, Ms. Gomez Velazquez pled no contest to voluntary manslaughter and
4 in 2010 was sentenced to serve a determinate term of 21 years for voluntary manslaughter.
5 Exh. C, Abstract of Judgement; *see also* Exh. A, UKGV Decl. at ¶ 41. The sentences for
6 her robbery and burglary convictions were stayed per California PC §654, which prohibits
7 state courts from imposing multiple punishments on convictions arising out of the same
8 criminal act. Exh. C, Abstract of Judgement.
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11 40. In 2022, California passed SB 775, which expanded the postconviction relief
12 previously available under California PC §1172.6—a statute that allowed individuals who
13 were convicted of murder or manslaughter under theories that are no longer permissible,
14 to seek resentencing. *See People v. Gomez*, No. B329629, 2025 WL 653359 (Cal. Ct.
15 App. Feb. 28, 2025). Under the amended statute, individuals like Ms. Gomez Velazquez,
16 who were charged with aiding and abetting murder and ultimately convicted of
17 manslaughter, were now able to petition the court to vacate their manslaughter conviction
18 and be resentenced on a less serious felony. *Id.*
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22 41. In April 2022, Ms. Gomez Velazquez sought resentencing under California PC
23 §1172.6. *See id.* The trial court denied Ms. Gomez Velazquez’s petition, arguing that she
24 was not entitled to relief as a matter of law. *Id.* Ms. Gomez Velazquez appealed the trial
25 court’s denial and on February 28, 2025, the California Court of Appeals granted Ms.
26 Gomez Velazquez’s appeal, finding the trial court erred in its prima facie finding that Ms.
27 Gomez Velazquez’s conviction of voluntary manslaughter was ineligible for resentencing
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1 under California PC § 1172.6. *Id.* at *7-*8. The appellate court remanded her case to the
2 superior court with directions to issue an order to show cause and conduct an evidentiary
3 hearing in accordance with the statutory scheme articulated in PC § 1172.6. *Id.* at *8.

4 **IV. Ms. Gomez Velazquez takes full responsibility for her actions.**

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6 42. Even though Ms. Gomez Velazquez was a minor participant in the events that led
7 to Gary's death—she never handled the murder weapon, was not in the room where Gary
8 was shot, and in fact did not even know he died until much later—she accompanied Gary
9 to the trailer and was physically present as the events unfolded. Exh. A, UKGV Decl. at
10 ¶¶ 47, 91. Ms. Gomez Velazquez acknowledges that during the period of her life when
11 she was under Gary's coercive control, she put herself in situations where people were
12 hurt. *Id.* at ¶ 91. She has spent the last two decades learning from her past, making amends
13 for the harm she caused, and developing the insight and skills she needs to be a positive
14 member of her community. *Id.* at ¶¶ 46-47, 92; Exh. D, Self-Help Milestones from
15 Incarceration ("Self-Help Milestones"); Exh. E, Educational Milestones from
16 Incarceration ("Educational Milestones").
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20 **V. In prison, Ms. Gomez Velazquez dedicated herself to healing from her**
21 **past trauma and uplifting the community around her.**

22 43. While incarcerated at the Central California Women's Facility ("CCWF"), Ms.
23 Gomez Velazquez began to heal. For the very first time, she prioritized her mental health
24 and developed healthy and nurturing relationships with the people around her. Exh. A,
25 UKGV Decl. at ¶ 48. She learned that caring for others helped her care for herself. *Id.* at
26 ¶¶ 50-54.
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1 44. While in prison, Ms. Gomez Velazquez met with a psychiatrist and was formally
2 diagnosed with bipolar disorder, anxiety, and depression. *Id.* at ¶ 48. Her doctor
3 prescribed medications to help her manage her diagnoses and mitigate their impact on her
4 mental health and stability. *Id.* She has been consistently taking psychiatric medications
5 ever since. *See id.*

7 45. She also sought out self-help and education programs focused on domestic
8 violence and abuse, completing over 90 programs during her incarceration. *Id.* at ¶ 46;
9 *see also* Exh. D, Self-Help Milestones; Exh. E, Educational Milestones.

11 46. Ms. Gomez Velazquez credits the 13-week Accountability Workshop and
12 Restorative Education program, also known as “AWARE,” as one of the most impactful
13 self-help courses she took because it helped her take meaningful accountability for the
14 choices that led to her incarceration. Exh. A, UKGV Decl. at ¶ 47; Exh. D, Self-Help
15 Milestones. As a part of this program, Ms. Gomez Velazquez created a timeline of her
16 life to understand the events that lead to her offense. She acknowledged the consequences
17 of her actions beyond the impact on those immediately present at the crime, in particular
18 recognizing that the people who love her suffer because of her decisions. *Id.*

21 47. Ms. Gomez Velazquez went back to school. *Id.* at ¶ 49. After completing her
22 associate’s degree at CCWF, she was accepted into a competitive bachelor’s degree
23 program specifically designed for incarcerated people at California State University,
24 Fresno (“Fresno State”). *Id.* Ms. Gomez Velazquez excelled in the program, earning an
25 A in all but one of the 15 upper division courses she completed. Exh. H, Letter from Dr.
26 Emma Hughes, Project Rebound at California State University, Fresno (“Hughes Ltr.”).

1 She is just two classes away from completing the program and graduating with a
2 bachelor's degree in social science. Exh. A, UKGV Decl. at ¶ 49; *see also* Exh. E,
3 Educational Milestones; Exh. H, Hughes Ltr.

4
5 48. Ms. Gomez Velazquez also contributed meaningfully to her community at CCWF
6 by recognizing and trying to address challenges faced by incarcerated women like herself.
7 When Ms. Gomez Velazquez learned that placing her quarterly commissary order was no
8 simple task, she came up with a small business solution. Exh. A, UKGV Decl. at ¶¶ 50-
9 53. The problem she and so many other incarcerated people faced was that often the
10 vendor would be out of the specific product requested, for example, the exact brand and
11 size of toothpaste. *Id.* at ¶ 51. Instead of replacing the out-of-stock item with a similar
12 product, the vendor would not fill that item in the order at all. *Id.* Those who had family
13 or friends on the outside were able to request their loved one speak with the vendor to
14 find replacement items. *Id.* Those who did not have someone on the outside to liaise with
15 the vendor, however, received quarterly packages lacking in the most basic hygiene
16 products. *Id.* Frustrated by this, Ms. Gomez Velazquez came up with an idea—a business
17 she named Mi Casa Ordering Service—to ensure people on the inside could maximize
18 their commissary items by working with the vendor to replace sold-out items with
19 something similar in each order. *Id.* at ¶ 52. Ms. Gomez Velazquez won the Defy Ventures
20 small business competition, a competition that introduces incarcerated people to business
21 concepts. *Id.*; Exh. I, Letter from Deanna M. Luna, Defy Ventures (“Luna Ltr.”). For her
22 winning idea, Ms. Gomez Velazquez received seed money to begin building Mi Casa
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1 Ordering Service. Exh. A, UKGV Decl. at ¶ 52. She is excited to begin this work as soon
2 as she is released. *Id.*

3 49. In another example, Ms. Gomez Velazquez directly addressed the anxiety she and
4 so many other incarcerated noncitizen women shared over their immigration status and
5 what to expect after prison by organizing CCWF's first immigration resource fair. *Id.* at
6 ¶ 53. She invited immigrants' rights organizations from across California to set up booths
7 and the fair was such a success that it now occurs annually at CCWF. *Id.* In total, 11
8 organizations attended the fair organized by Ms. Gomez Velazquez; there was even an
9 attorney present to answer specific case questions. *Id.* Attendees left with a bag full of
10 resources—from know your rights materials to legal referrals—and a better
11 understanding of the immigration consequences they might face. *Id.* If released, Ms.
12 Gomez Velazquez hopes to work on expanding the fair to other prisons in California, and
13 perhaps nationwide. *Id.*

14 50. Today, Ms. Gomez Velazquez has a profound support system consisting of family,
15 community, and institutional support. Her support team is fully committed to her
16 successful reentry into society and have already pledged to provide her with a host of
17 resources, from housing and transportation to court hearings, to financial and emotional
18 support. *See* Exh. J, Michelle Gomez Letter ("Michelle Ltr.") (housing, employment,
19 emotional support); Exh. K, Victoria Huynh Letter ("Victoria Ltr.") (financial support,
20 reentry support, mentorship); Exh. L Havannah Tran Letter ("Havannah Ltr.") (reliable
21 transportation, financial support, emotional support); Exh. M, Sarah Lee Letter ("Sarah
22 Ltr.") (fundraising financial support, emotional support); Exh. N, Kourtney Nahm Letter

1 (“Kourtney Ltr.”) (fundraising financial support, emotional support); Exh. O, Sister
 2 Warriors Freedom Coalition Letter (“Sister Warriors Ltr.”) (housing, job training, and
 3 financial support); Exh. P, Power Blossoms Organizational Letter (“Power Blossoms
 4 Ltr.”) (transportation, financial support for groceries and other basic needs); Exh. Q, New
 5 Light Wellness Organizational Letter (“New Light Ltr.”) (peer support, family group
 6 support); Exh. R, Next Step Reentry Program Acceptance Letter (“Next Step Acceptance
 7 Ltr.”) (therapy, financial support, transportation); Exh. S, Essie Justice Group
 8 Organizational Letter (“Essie Ltr.”) (transportation, “hot and healthy meals”); Exh. T,
 9 Ella Baker Center for Human Rights Organizational Letter (“Ella Baker Ltr.”) (financial
 10 support, job training); Exh. U, Asian Prisoner Support Committee Letter (“APSC Ltr.”)
 11 (peer support group for formerly incarcerated people, navigating access to social
 12 services).

16 **VI. ICE’s Prolonged, Unreviewed Incarceration of Ms. Gomez Velazquez** 17 **and the Conditions of her Confinement**

18 51. Ms. Gomez Velazquez earned her release on parole on July 31, 2024, largely due
 19 to all the classes and self-help programs she took while in prison. Exh. A, UKGV Decl.
 20 at ¶ 54. As her release date approached, Ms. Gomez Velazquez wanted to be hopeful
 21 about a new chapter but knew that after over 20 years² away from her community and
 22 family, she still might not go home. *Id.* at ¶ 56. She knew it was possible ICE would be
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 26 ² Ms. Gomez Velazquez did not receive any credit for the time she served on her first-
 27 degree murder conviction, the approximately 6 years between 2004, when she was
 28 arrested, and 2010, when the original conviction for first degree murder was reversed and
 she replead to voluntary manslaughter. Her 21-year conviction for voluntary manslaughter
 began in 2010. *See* Exh. C, Abstract of Criminal Judgment.

1 waiting to take her into immigration custody as soon as she finished her time at CCWF.

2 *Id.*

3 52. And, exactly as she feared, on July 31, 2024, the California Department of
4 Corrections and Rehabilitation (“CDCR”) transferred Ms. Gomez Velazquez directly to
5 immigration authorities. *Id.* at ¶ 54.

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7 53. Ms. Gomez Velazquez has spent over half her life in custody. *Id.* at ¶ 58. In all of
8 that time, the most crushing and demoralizing experience was the day CDCR handed her
9 to ICE and not to her family. Ms. Gomez Velazquez had never felt so broken. *Id.*

10
11 54. Ms. Gomez Velazquez has now been in immigration detention for one year and
12 counting. *See id.*; Exh. B, Ramirez Decl. at ¶ 16. Because of Ms. Gomez Velazquez’s
13 criminal convictions, she is not eligible for a statutory bond hearing. *See* 8 U.S.C. §
14 1226(c). To date, she has not been granted a bond hearing and the justification for her
15 ongoing detention has not been reviewed by any neutral decisionmaker. *See* Exh. B,
16 Ramirez Decl. at ¶ 16. It has been very difficult for her, especially since she was
17 transferred from the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington
18 to the Eloy Detention Center in Eloy, Arizona, where the conditions of her confinement
19 are far worse. *See* Exh. A, UKGV Decl. at ¶¶ 58, 74-90.

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23 55. In the early morning hours of April 15, 2025, Ms. Gomez Velazquez was put on a
24 plane in Tacoma, Washington and not told where she was being flown. *Id.* at ¶ 68-71;
25 Exh. B, Ramirez Decl. at ¶ 12. She was then placed in a trailer and holding facility in
26 Florence, Arizona for a few days before being officially transferred into the Eloy
27 Detention Center. Exh. A, UKGV Decl. at ¶ 72. ICE initially informed Ms. Gomez
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Velazquez’s immigration attorney that the transfer to Eloy was temporary and that it was done for a medical visit; the ICE officer even assured Ms. Ramirez that Ms. Gomez Velazquez “would definitely be returned to Tacoma prior to her [individual] hearing.” Exh. B, Ramirez Decl. at ¶ 12. A few hours later, they informed Ms. Ramirez’s office that the transfer would be permanent, but they provided no justification. *Id.* Despite Ms. Ramirez’s objection that changing venue would cause significant delay in Ms. Gomez Velazquez’s case, the government’s motion to change venue to Eloy was granted. *Id.* at ¶¶ 15-16. Ms. Gomez Velazquez is now scheduled for her individual hearing on August 27, 2025, four months after she was originally scheduled to be heard. *Id.* To date, ICE has not provided Ms. Gomez Velazquez with a reason for her transfer to Eloy. *Id.*

56. The Eloy Detention Center is an immigration detention center owned and operated for-profit by CoreCivic in Eloy, Arizona. Over the past decade, the Florence Immigrant and Refugee Rights Project (Florence Project) has documented and filed numerous complaints with oversight agencies regarding severe abuses at Eloy.³ Their most recent report from October 2024 highlights that:

- a. Eloy has gained notoriety as the “deadliest immigration detention center in the U.S.,” with at least 16 reported deaths, including five suicides. (p. 1)

³ See “Anthology of Abuse: a Legacy of Failed Oversight and Death at the Eloy Detention Center,” October 2024, https://www.detentionwatchnetwork.org/sites/default/files/reports/Anthology%20of%20Abuse%20-%20A%20Legacy%20of%20Failed%20Oversight%20and%20Death%20at%20the%20Eloy%20Detention%20Center_.pdf

- 1 b. The facility has significant issues, including poor medical care and delays
2 in accessing specialized medical care, unsanitary dining conditions,
3 inadequate laundry services, frequent lockdowns, improper use of suicide
4 watch and segregation, violations of privacy for women, and verbal and
5 physical abuse by staff. (p. 2)
- 6 c. Advocates and individuals formerly detained at Eloy have highlighted the
7 facility's alarming lack of responsiveness and preparedness, particularly in
8 medical emergencies. (p. 3)
- 9 d. People detained at Eloy have long been subjected to a climate of fear,
10 exacerbated by a series of mysterious and unacknowledged deaths that have
11 sparked outrage and protest. (p. 3)
- 12 e. The Eloy Detention Center has consistently failed to fully comply with
13 detention standards. In a recent inspection conducted by ICE's own Office
14 of Detention Oversight in 2024, inspectors uncovered 29 deficiencies
15 across five of the 13 evaluated detention standards. Most notably, these
16 failures included serious lapses in medical care. (p. 5)

17 57. And, indeed, while at the Eloy Detention Center, Ms. Gomez Velazquez has had
18 significant issues receiving adequate health care. She did not have these problems while
19 she was detained at NWIPC. *Id.* at ¶¶ 74-90.

20 58. Ms. Gomez Velazquez takes gabapentin for her nerve pain. *Id.* at ¶ 85. The facility
21 initially refused to administer her prescription of gabapentin as prescribed, at mid-day
22 and before bedtime. *Id.* at ¶ 86. Instead, she was given the first dose of gabapentin at 4

1 A.M. and a second dose around 8 P.M. As a result, she would be groggy and in pain all
2 day. Moreover, when Ms. Gomez Velazquez experienced nerve pain—typically around
3 mid-day—she did not have access to the medication she needed. *Id.*

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5 59. On May 12, 2025, a guard ordered Ms. Gomez Velazquez to immediately remove
6 her doctor-ordered orthopedic shoes. *Id.* at ¶ 88. When Ms. Gomez Velazquez tried to
7 explain that a doctor had previously ordered these specialized shoes for her congenital
8 condition—one leg is longer than the other—the guard responded that a doctor at Eloy
9 would be able to assess Ms. Gomez Velazquez’s medical need by looking at the shoes,
10 without Ms. Gomez Velazquez present. *Id.* at ¶ 84, 88. Ms. Gomez Velazquez was forced
11 to surrender the doctor-ordered shoes, which exacerbated her lower back pain. *Id.* at ¶ 88.
12
13 While the shoes were eventually returned to her, Ms. Gomez Velazquez found it puzzling
14 that they were approved for her specific use by a nurse without any specialized
15 background in orthopedic care. *Id.*

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18 60. Ms. Gomez Velazquez is prediabetic. *Id.* at ¶ 89. She expects she will soon develop
19 diabetes because of her diet at Eloy, over which she has no control. *Id.* As a prediabetic,
20 one of the most important things Ms. Gomez Velazquez can do to avoid developing
21 diabetes is to change her diet to include more fruits and vegetables. *Id.* Unfortunately,
22 despite being on a special diet at Eloy, her meals consist primarily of starchy food and
23 rice. *Id.* She is given four slices of bread with each meal and unlimited cookies, a small
24 amount of protein, and rarely any vegetables. *Id.*

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27 61. Based on her family history, Ms. Gomez Velazquez is at a high-risk of developing
28 breast cancer. *Id.* at ¶ 83. Despite this, Ms. Gomez Velazquez was unable to schedule a

1 follow-up mammogram even though she had a doctor's order from Tacoma, Washington
 2 that she be urgently scheduled for a follow-up mammogram after her initial screening
 3 revealed abnormalities on her left side. *Id.* The Eloy facility has been unable to locate her
 4 previous mammogram records and Ms. Gomez Velazquez has had to start the
 5 mammogram process all over again, setting her back months. *Id.*

7 62. Finally, Ms. Gomez Velazquez uses a topical ointment for her sensitive skin, as
 8 directed by a doctor. *Id.* at ¶ 87. Despite several requests for the ointment—which is
 9 available over-the-counter—the Eloy facility has taken no action to ensure that Ms.
 10 Gomez Velazquez can treat her sensitive skin. *Id.* Although Ms. Gomez Velazquez
 11 brought the ointment with her from Tacoma to Eloy, the facility has not given her access
 12 to the items she brought with her. *Id.*

15 63. In addition, the conditions of confinement at the Eloy Detention Center have been
 16 dehumanizing, far worse than the conditions Ms. Gomez Velazquez faced during her
 17 criminal incarceration. *Id.* at ¶¶ 74-81.

19 64. On May 5, 2025, Ms. Gomez Velazquez woke up around 4:20 A.M. to a fire alarm
 20 blaring across the facility.⁴ *Id.* at ¶ 78. For nearly 30 minutes, she and her cell mates sat
 21

23 ⁴ When congressperson Yassamin Ansari's visited the Eloy Detention Center on May 29,
 24 2025, multiple women reported to her that a fire broke out at the facility earlier that
 25 month and that during the incident "officers and staff were 'ill-prepared' to evacuate." An
 26 80-year-old woman fainted from the heat intensity after "pounding on a door to escape
 27 the fire" and officers failed to help her. When a detained woman tried to help the elderly
 28 woman after officers failed to do anything, she was "placed in isolation for 15 days
 because officers 'didn't like' her reaction." *See Detained immigrants at Eloy detail
 dehydration, lack of medical care, and mistreatment*, The Copper Courier, May 30, 2025,
<https://coppercourier.com/2025/05/30/detained-immigrants-at-eloy/>.

1 locked in their cells as the fire alarm continued sounding before anyone came to let them
2 out. *Id.* They watched in a panic as facility staff ran out of the building shouting for people
3 to get out. *Id.* When Ms. Gomez Velazquez returned to her cell, the fire alarm continued
4 to sound for at least 20 minutes. *Id.* She later learned that staff in the facility did not know
5 how to turn the alarm off. She remains concerned that facility staff are not adequately
6 trained to handle emergencies, and as a result, are putting her safety and wellbeing at risk.

7 *Id.* at ¶ 77.

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10 65. Ms. Gomez Velazquez is also subject to random and invasive searches every single
11 day. *Id.* at ¶ 76. Every time she goes to eat, for a medical appointment, or to meet with
12 her attorneys over video call, she is patted down. *Id.* Sometimes the guards also wand her
13 with a metal detector. *Id.* Her cell is randomly searched without warning or apparent
14 justification. *Id.* Despite having spent over half her life in carceral settings, Ms. Gomez
15 Velazquez does not recall having been touched by staff as much as she has been while at
16 Eloy. *Id.*

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19 66. Ms. Gomez Velazquez cannot access adequate feminine hygiene products in Eloy,
20 even when she explicitly requests them from a guard. *Id.* at ¶¶ 80-81. The products she
21 does receive from time-to-time are simply ineffective for their purpose. *Id.* She does not
22 feel comfortable leaving her cell when she is on her period because she is terrified she
23 will have an accident. *Id.* at ¶ 80.

24
25
26 67. When Ms. Gomez Velazquez was first transferred to Eloy, the uniform she was
27 given had a large hole and was degrading and unwearable. *Id.* at ¶ 79. The facility
28 regularly gives her obviously soiled underwear and claims they are clean. *Id.*

1 68. When Ms. Gomez Velazquez attempts to speak with guards in a calm tone, they
2 regularly respond by yelling at her with disproportionate anger. *Id.* at ¶ 75. Once, when
3 Ms. Gomez Velazquez attempted to communicate her medical needs to a guard, the guard
4 responded by yelling at her. *Id.* When she asked the guard to please stop yelling so that
5 she could communicate her needs, the guard said “well don’t talk to me.” *Id.*

7 69. Although the conditions in prison were challenging, Ms. Gomez Velazquez always
8 had clean clothes, access to healthcare and the medications she was prescribed, and the
9 guards generally did not verbally berate her every time she attempted to communicate
10 with them. *Id.* at ¶ 74.

12 70. DHS and ICE have civilly incarcerated Ms. Gomez Velazquez for one year and
13 counting. Ms. Gomez Velazquez’s health has deteriorated so much while at Eloy that her
14 nerve pain has gotten worse and she must now take two times the medication she needed
15 in the past. She has lost over 35 pounds since entering ICE custody a year ago. *Id.* at ¶
17 58. After years without needing to take antidepressants, a doctor prescribed them for her,
18 and she is now taking the antidepressant Lexapro. *Id.* at ¶ 90.

20 71. She will remain detained for the indefinite future absent intervention by this court
21 as she pursues all her avenues for relief, as described below.
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VII. Ms. Gomez Velazquez's Immigration Proceedings

72. In around 2001, Ms. Gomez Velazquez's parents listened to the immigration advice of an unscrupulous *notario*⁵ who claimed to be able to help the family file an asylum application. *Id.* at ¶ 60. Ms. Gomez Velazquez was young and does not recall exactly what happened, but she remembers the family's asylum application was rejected. *Id.* What the *notario* failed to explain was that the family would be placed in removal proceedings. *Id.*

73. On May 1, 2001, DHS initiated removal proceedings against Ms. Gomez Velazquez. *See* Exh. B, Ramirez Decl. at ¶ 6. On October 4, 2004, an Immigration Judge ("IJ") severed Ms. Gomez Velazquez's case from her family's and administratively closed her proceedings because she was in criminal custody at the time. *Id.* After completing her custodial sentence, on July 31, 2024, Ms. Gomez Velazquez was detained by ICE and transferred to the Northwest ICE Processing Center in Tacoma, Washington. *Id.* at ¶ 7. On August 1, 2024, DHS moved to recalendar Ms. Gomez Velazquez's immigration proceedings. *Id.*

⁵ *Notarios* are non-lawyers who represent themselves as qualified to offer legal immigration advice or services, but who, in reality, are not qualified to provide this advice. *Notarios* routinely victimize members of immigrant communities. "In many cases the work performed by such individuals results in missed deadlines, the filing of incorrect or incomplete forms, or the filing of false claims with the government." As a result of the advice or actions of such individuals, immigrants face serious consequences, including civil or criminal liability for the filing of false claims and deportation. *About Notario Fraud*, American Bar Association, December 12, 2024, https://www.americanbar.org/groups/public_interest/immigration/projects_initiatives/fightnotariofraud/about_notario_fraud/.

1 74. At her first hearing on August 22, 2024, Ms. Gomez Velazquez requested a short
2 continuance to obtain counsel. Exh. A, UKGV Decl. at ¶ 62; Exh. B, Ramirez Decl. at ¶
3 8. At her second hearing, she again requested extra time due to an error in her file that
4 mistakenly listed an attorney of record. Exh. A, UKGV Decl. at ¶¶ 63-66; Exh. B,
5 Ramirez Decl. at ¶ 9. Ms. Gomez Velazquez was unable to schedule consultations with
6 prospective attorneys until this issue was resolved. Exh. A, UKGV Decl. at ¶ 63. By her
7 third hearing on December 2, 2024, Ms. Gomez Velazquez had obtained legal
8 representation. *See* Exh. B, Ramirez Decl. at ¶ 10. The court later scheduled her individual
9 hearing for April 28, 2025. *Id.* at ¶ 11. All subsequent delays in her immigration case have
10 been caused exclusively by the government.

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14 75. Although Ms. Gomez Velazquez was scheduled for her individual hearing before
15 the Tacoma immigration court on April 28, 2025, and her immigration attorneys had filed
16 all evidence in her case with the Tacoma court, ICE suddenly transferred Ms. Gomez
17 Velazquez to Arizona without warning or explanation in the early morning hours of April
18 15, 2025. *See id.* at ¶¶ 12-14; *see also* Exh. A, UKGV Decl. at ¶¶ 68-73. Her individual
19 hearing is now set to take place on August 27, 2025, four months later than originally
20 scheduled. Exh. B, Ramirez Decl. at ¶ 14.

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23 76. Ms. Gomez Velazquez is pursuing relief in her current immigration proceedings
24 because she fears being tortured or killed if she were to be removed to Mexico. She has
25 timely complied with all deadlines in her immigration proceedings. She is committed to
26 continuing her immigration case and plans to appeal the immigration judge's decision—
27 to the Board of Immigration Appeals, and the Ninth Circuit if necessary—if she is denied
28

1 relief at her upcoming hearing. *See* Exh. A, Declaration of UKGV at ¶ 87; Exh. B,
2 Ramirez Decl. at ¶ 22.

3 77. In addition to fighting her case in immigration court, she is likewise pursuing relief
4 outside of court. Ms. Gomez Velazquez is currently working with her attorneys to obtain
5 the necessary documents to apply for a U Visa because she was a victim of sexual assault
6 in the Lynwood jail, and a T Visa because she is a survivor of trafficking. Exh. B,
7 Declaration of Cindy Ramirez at ¶¶ 22-25.
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10 78. As she vigorously fights for her right to remain in the United States, she faces the
11 prospect that she will remain detained for years beyond the 12 months she has already
12 been confined without any review of the necessity for her incarceration. It is for this
13 reason she seeks relief from this Court via the instant habeas petition.
14

15 **LEGAL FRAMEWORK**

16 79. Civil immigration detention is limited by both substantive and procedural due
17 process.
18

19 80. The Immigration and Nationality Act authorizes the civil immigration detention of
20 individuals pending removal proceedings. Section 1226(a) authorizes ICE to detain a
21 noncitizen “pending a decision on whether [she] is to be removed from the United States,”
22 while allowing the government to release the noncitizen on bond of at least \$1,500 or on
23 conditional parole. 8 U.S.C. § 1226(a). Individuals detained under § 1226(a) are entitled
24 to a bond hearing before an IJ at which they can seek release. *See* 8 C.F.R. § 1003.19; 8
25 C.F.R. § 1236.1.
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1 81. Section 1226(c), on the other hand, categorically requires the detention of
2 noncitizens who are deportable for certain criminal convictions. 8 U.S.C. § 1226(c).
3 Individuals detained under § 1226(c) are not statutorily eligible for a bond hearing before
4 an IJ.
5

6 82. Nonetheless, detention under 8 U.S.C. § 1226(a) and 8 U.S.C. § 1226(c) must
7 comport with the Fifth Amendment Due Process Clause. The “Due Process Clause applies
8 to all ‘persons’ within the United States, including [noncitizens], whether their presence
9 here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693
10 (2001). “Freedom from imprisonment—from government custody, detention, or other
11 forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause
12 protects. *Id.* at 690; *see also United States v. Salerno*, 481 U.S. 739, 755 (1987) (“In our
13 society liberty is the norm, and detention prior to trial or without trial is the carefully
14 limited exception.”).
15
16
17

18 83. Due process has a substantive and a procedural component. When considering due
19 process challenges, courts should first consider whether the government’s deprivation of
20 liberty violates substantive due process. Only if the detention passes muster in that inquiry
21 does the court consider a procedural due process claim. *See Huynh v. Reno*, 56 F.2d 1160,
22 1162 n.3 (W.D. Wash. 1999) (citing *Salerno*, 481 U.S. at 746) (“[O]nly when a restriction
23 on liberty survives substantive due process scrutiny does the further question of whether
24 the restriction is implemented in a procedurally fair manner become ripe for
25 consideration.”).
26
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84. Substantive due process “forbids the government to infringe certain ‘fundamental’ liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest.” *Reno v. Flores*, 507 U.S. 292, 302 (1993) (emphasis in original). Substantive due process prohibits civil detention that is punitive in purpose or in effect, including detention that is unreasonably prolonged. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (finding that the nature and duration of confinement must “bear some reasonable relation” to its purpose); *Salerno*, 481 U.S. at 747 n.4 (detention may become “excessively prolonged, and therefore punitive”).

85. Procedural due process, on the other hand, ensures that there are “adequate procedural protections” to protect an individual’s interests. *Zadvydas*, 533 U.S. at 690.

I. Civil immigration detention violates substantive due process if it is punitive, meaning excessive or unnecessary in relation to its purpose.

86. Substantive due process prohibits civil detention that is punitive. Civil detention that has a non-punitive purpose may nevertheless be unconstitutionally punitive if it is “‘excessive in relation to [its non-punitive] purpose,’ or is ‘employed to achieve objectives that could be accomplished in so many alternative and less harsh methods[.]’” *Jones*, 393 F.3d at 934 (internal citations omitted). These principles apply to immigration detention; indeed, in proceedings elsewhere “the government has conceded ‘that mandatory detention under [section] 1226(c) without a bond hearing violates the Due Process Clause when it becomes unreasonably prolonged in relation to its purpose[.]’” *Reid*, 17 F.4th at 8.

1 87. Prolonged immigration detention may become unconstitutionally punitive in three
2 ways.

3 88. First, civil immigration detention is not constitutionally permissible unless it is
4 reasonably related to the purpose of preventing danger to the community or flight risk.
5
6 *Demore v. Kim*, 538 U.S. 510, 515 (2003); *see also Zadvydas*, 533 U.S. at 690.

7 89. In *Demore*, the Supreme Court rejected a facial due process challenge to
8 mandatory detention under Section 1226(c) and upheld “brief” detention on the
9
10 misinformed understanding that it lasts “an average ... of 47 days” in the “vast majority”
11 of cases and otherwise rarely exceeds five months. *Demore*, 538 U.S. at 529-30. Yet
12 *Demore* did not disturb the longstanding principle that civil detention cannot be punitive,
13 and did not consider the constitutionality of § 1226(c) detention that had become
14 prolonged. Where an individual does not pose a danger to the community nor a flight risk,
15 continued civil detention does not reasonably serve a legitimate government interest and
16
17 is, therefore, punitive.

18
19 90. Second, civil detention is punitive if its purpose can be achieved through “less
20 harsh” alternatives to physical custody. *Cf. Jones*, 393 F.3d at 934 (recognizing that a
21 restriction is punitive where it is aimed at an objective that could be accomplished in
22 alternative, less harsh ways). Thus, the availability of alternatives to incarceration is
23 relevant to the determination of whether civil detention is unlawfully punitive. The Ninth
24 Circuit has also explained that conditions of civil detention are presumed to be punitive
25 when they are indistinguishable from those of criminal pretrial custody. *Id.*
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1 91. Third, even civil detention that begins as constitutionally acceptable may become
2 unconstitutionally punitive when it exceeds a particular duration. “[F]or detention to
3 remain reasonable,” greater justification is needed “as the period of [] confinement
4 grows.” *Zadvydas*, 533 U.S. at 701; *id.* at 690 (“A statute permitting indefinite detention
5 of [a noncitizen] would raise a serious constitutional problem”); *see also, e.g., Salerno*,
6 481 U.S. at 747 n.4 (recognizing there may be a “point at which detention in a particular
7 case might become excessively prolonged, and therefore punitive, in relation to Congress’
8 regulatory goal”); *Jackson*, 406 U.S. at 733 (expressing “substantial doubt” that statutes
9 authorizing pretrial detention of incompetent criminal defendants “could survive
10 constitutional scrutiny if interpreted to authorize indefinite commitment”); *McNeil v.*
11 *Director, Patuxent Institution.*, 407 U.S. 245, 249-50 (1972) (upholding “short-term
12 confinement with a limited purpose;” however, “by the same token, the duration of the
13 confinement must be strictly limited” to adhere to due process).

14 92. Indeed, the Ninth Circuit has stated that even if detention continues to serve its
15 purpose, “at some point, regardless of the risks [], due process will require that [a person
16 subject to prolonged civil confinement] be released.” *United States v. Torres*, 995 F.3d
17 695, 709-710 (9th Cir. 2021) (noting that “all parties,” including the federal government,
18 conceded this point); *see also United States v. Briggs*, 697 F.3d 98, 103 (2d Cir. 2012)
19 (“[F]or every set of circumstances, due process does impose some limit [on civil
20 confinement.]”); *Doe v. Becerra*, 732 F. Supp. 3d 1071, 1082-83 (N.D. Cal. 2024)
21 (finding the government’s contention that detention during removal proceedings is always
22 permissible unpersuasive because it presents a detainee with an “illusory” choice:
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1 between deportation to a country where they fear they will be tortured or killed or
2 remaining in detention until their claims have been finally adjudicated).

3 93. In sum, prolonged civil immigration detention is punitive in violation of
4 substantive due process under any of the following circumstances: (1) a person subjected
5 to prolonged civil immigration detention poses no risk of flight or danger to the
6 community; (2) restrictions short of physical custody are sufficient to mitigate any risk a
7 detained person poses; or, (3) the duration of the detention exceeds the bounds permitted
8 by due process to achieve the limited purposes of civil confinement.
9

10 94. Where any of these three scenarios arises, the Constitution requires release from
11 custody.
12

13
14 **II. Even when it is non-punitive, prolonged civil immigration detention**
15 **without an individualized hearing violates procedural due process.**

16 95. Even if not punitive, prolonged immigration detention violates procedural due
17 process absent an individualized inquiry into whether the government's asserted
18 justification for confinement "outweighs the 'individual's constitutionally protected
19 interest in avoiding physical restraint.'" *Zadvydas*, 533 U.S. at 690 (citations omitted);
20 *see Sajous v. Decker*, No. 18-cv-2447, 2018 WL 2357266, at *8 (S.D.N.Y. May 23, 2018)
21 ("The Court's first conclusion is essentially conceded by the Government: that prolonged
22 detention under § 1226(c) without providing [a noncitizen] with a bond hearing will—at
23 some point—violate the right to due process.").

24 96. Immigration detention that exceeds six months is prolonged, and therefore
25 presumptively unconstitutional without an individualized hearing. *See Zadvydas*, 533
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1 U.S. at 701; *Diouf v. Napolitano*, 634 F.3d 1081, 1091-92 (9th Cir. 2011) (holding that
 2 immigration “detention becomes prolonged” after six months), *abrogated on other*
 3 *grounds as recognized in Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022).

4 ARGUMENT

6 97. Ms. Gomez Velazquez’s civil immigration detention of over 12 months in
 7 conditions that are indistinguishable—and often worse—than in criminal custody is
 8 excessive in relation to the government’s interests. Her detention is therefore punitive in
 9 violation of her right to substantive due process. Ms. Gomez Velazquez is entitled to
 10 immediate release from civil custody.

12 98. Even if this Court does not find that Ms. Gomez Velazquez’s prolonged detention
 13 violates her right to substantive due process, procedural due process entitles Ms. Gomez
 14 Velazquez to an evidentiary hearing before a neutral decisionmaker to evaluate the
 15 necessity of her continued detention.
 16

18 **I. Ms. Gomez Velazquez’s continued detention is punitive in violation of** 19 **her right to substantive due process.**

20 99. Ms. Gomez Velazquez’s prolonged civil immigration detention is punitive and
 21 violates her right to substantive due process in three independent ways.

23 **A. First, Ms. Gomez Velazquez’s continued detention does not** 24 **serve any nonpunitive governmental interest because Ms.** 25 **Gomez Velazquez is neither a flight risk nor a danger to her** 26 **community.**

26 100. Civil immigration detention is not constitutionally permissible unless it is
 27 reasonably related to the purpose of preventing flight risk or danger to the community.
 28

1 *Demore*, 538 U.S. at 515; *Zadvydas*, 533 U.S. at 690. Here, continued detention serves
2 neither interest, as Ms. Gomez Velazquez is neither a flight risk nor a danger to the
3 community.

4
5 **1. Ms. Gomez Velazquez is not a flight risk.**

6 101. If released, Ms. Gomez Velazquez will be on parole and under the supervision of
7 the California Department of Corrections and Rehabilitation (CDCR). In addition to
8 complying with all terms of her release mandated by ICE, Ms. Gomez Velazquez will
9 have to notify her parole officer within 24 hours of her release from ICE detention and
10 subsequently comply with all the conditions of her parole, which include regular check-
11 ins with her parole officer and remaining within 50 miles of her residence. Exh. W, Notice
12 and Conditions of Parole; *see also* Exh. A, UKGV Decl. ¶ 97.

15 102. Moreover, Ms. Gomez Velazquez is fighting for her ability to stay in this country;
16 she fears for her life in Mexico and is committed to winning her immigration court case.
17 Ms. Gomez Velazquez is represented by counsel and has a strong and well-supported case
18 for relief from removal to Mexico under the Convention Against Torture. *See* Exh. B,
19 Ramirez Decl. at ¶¶ 18-21. She fears she will be tortured or killed in Mexico due to
20 multiple factors including her sexual orientation and her imputed gang affiliation. *Id.* at ¶
21 18. Her claims for relief are supported by a country conditions expert and a mental health
22 professional; both are prepared to testify at Ms. Gomez Velazquez's individual hearing.
23 *Id.* at ¶¶ 19-20. If Ms. Gomez Velazquez does not obtain relief from removal from the IJ,
24 she intends to pursue every appeal available to her, including at the Board of Immigration
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1 Appeals (BIA) and the Ninth Circuit. Exh. A, UKGV Decl. at ¶ 100; Exh. B, Ramirez
2 Decl. at ¶ 15.

3 103. As a result, Ms. Gomez Velazquez has every incentive to appear at her
4 immigration hearings and she recognizes that the consequences of her failure to appear
5 are significant. Exh. A, UKGV Decl. at ¶ 99. Members of her support team have pledged
6 their time and resources to personally ensure Ms. Gomez Velazquez has reliable
7 transportation to all future hearings. Exh. K, Victoria Ltr.; Exh. L, Havannah Ltr.
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10 104. Beyond fighting her deportation, Ms. Gomez Velazquez has concrete plans to
11 build a life in this country that includes her many ties to this country. She is pursuing
12 affirmative immigration relief that, if granted, could provide her a pathway to permanent
13 status in the United States. Exh. B, Ramirez Decl. at ¶¶ 22-25. She is actively pursuing a
14 U-Visa, as a victim of sexual assault, and a T-Visa, as a survivor of her ex-partner's
15 trafficking. *Id.*
16

17
18 105. Ms. Gomez Velazquez has a thorough and detailed five-year plan deeply rooted in
19 her community. See Exh. V, Five Year Plan. The plan is painstakingly detailed and shows
20 Ms. Gomez Velazquez's commitment to a productive life outside of incarceration. *Id.* In
21 this plan, Ms. Gomez Velazquez not only articulates what she hopes to accomplish upon
22 her release, but also a timeline of when she intends to accomplish each goal—within one
23 day, one week, one month, six months, and up to five years of her release—and, crucially,
24 who will support her along the way and how they will do so. *Id.*
25

26
27 106. From the day of her release, Ms. Gomez Velazquez plans to live with her sister,
28 Michelle. Exh. J, Michelle Ltr. If required by her parole officer, she is also prepared to

1 live in a transitional housing facility and has secured an offer letter from Next Step
2 Reentry. See Exh. R, Next Step Ltr. Within her first week, she plans to start working in
3 the office at Spirit Cruises and opening a bank account and begin building her credit. Exh.
4 J, Michelle Ltr.; Exh. V, Five Year Plan. She also plans to enroll in Defy Venture's
5 accelerator course so she can continue building her small-business, Mi Casa Ordering
6 Service. Exh. V, Five Year Plan. Within the first month she will be enrolled in the two
7 classes needed to complete her bachelor's degree in social science. *Id.*; Exh. H, Hughes
8 Ltr.
9

10
11 107. Ms. Gomez Velazquez has positive community and family relationships that she
12 is committed to nurturing upon release. She is eager to visit the Urban School in San
13 Francisco and meet the students she has been mentoring through "Voices of
14 Incarceration." Exh. V, Five Year Plan; Exh. F, Courtney Rein, High School Teacher at
15 the Urban School ("Rein Ltr."); Exh. G, Camillia Amiri, "Voices of Incarceration"
16 Student Participant ("Amiri Ltr."). Ms. Gomez Velazquez looks forward to sharing her
17 story and expanding the immigration fair for incarcerated Californians to other prisons
18 across the state, and even nationwide. Exh. A, UKGV Decl. at ¶ 53.
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22 **2. Ms. Gomez Velazquez is not a danger to the community.**

23 108. Ms. Gomez Velazquez's criminal convictions relate to conduct that occurred in
24 2003, over two decades ago. Although Ms. Gomez Velazquez ultimately pled to voluntary
25 manslaughter, she was not present in the room, nor did she possess or fire a gun at any
26 point during the altercation in which Gary was ultimately killed. Since then, Ms. Gomez
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1 Velazquez has dedicated herself to healing from her trauma and uplifting the community
2 around her.

3 109. Moreover, in the years since Ms. Gomez Velazquez's conviction, California has
4 enacted several criminal justice reforms. In 2022, California made it possible for
5 individuals convicted of voluntary manslaughter, in addition to those convicted of more
6 serious crimes under theories that imputed their malice, eligible for postconviction relief.
7 Ms. Gomez Velazquez's petition for postconviction relief based on these changes in the
8 law, codified in California PC §1172, is currently with the trial court. She may be eligible
9 to vacate her manslaughter conviction and be resentenced on a less serious felony based
10 on her limited participation in the crime, and that at her original conviction was based on
11 a theory of imputed malice now outlawed in California. *See People v. Gomez*, No.
12 B329629, 2025 WL 653359 (Cal. Ct. App. Feb. 28, 2025).

13 110. While Ms. Gomez Velazquez was incarcerated, she sought out self-help and
14 education programs focused on domestic violence and abuse, ultimately taking, and later
15 facilitating, over 90 courses. Exh. A, UKGV Decl. at ¶¶ 46-47; *see also* Exh. D, Self-
16 Help Milestones. She takes full responsibility for her role in the crime and acknowledges
17 the consequences of her actions and the harm she caused people beyond those
18 immediately present. Exh. A, UKGV Decl. at ¶ 91.

19 111. Not only has Ms. Gomez Velazquez done an immense amount of work developing
20 the tools and systems she needs to be a successful member of her community, but she has
21 also built meaningful and nurturing relationships with members of her community. *Id.* at
22 ¶¶ 50-54, 92-100; *see* Exh. D, Self-Help Milestones. She has her family and an enormous

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1 support team who are all eager to welcome her home. Exh. J, Michelle Ltr.; Exhs. K-U,
2 Letters of Support from the Community.

3 112. Moreover, Ms. Gomez Velazquez is not a threat. In fact, she is a mentor to high
4 school students enrolled in the “Voices of Incarceration” class at the Urban School. Exh.
5 F, Rein Ltr. Ms. Gomez Velazquez “has been a remarkably thoughtful and impactful
6 writer and mentor” to the students she has gotten to know through the program. *Id.*; *see*
7 *also* Exh. G, Amiri Ltr. (stating that Ms. Gomez Velazquez’s mentorship helped her gain
8 the courage to move far from home for college and that she is “proud and honored to call
9 Ursula Gomez a friend.”). Through the program, students wrote letters to Ms. Gomez
10 Velazquez “filled with honest questions about how to make good decisions, and how to
11 navigate social and family struggles.” Exh. F, Rein Ltr.; *see also* Exh. G, Amiri Ltr.
12 (“through our numerous letters sent back and forth, we discussed topics ranging from our
13 cultures and the immigrant experience to exchanging stories about our senior year prom
14 nights.”). When she wrote the students back, Ms. Gomez Velazquez “shared her own
15 thoughts and experiences in ways that sp[oke] to deep self-reflection and honesty.” Exh.
16 F, Rein Ltr. In her letters to the students, Ms. Gomez Velazquez “embodied so many of
17 the skills necessary to build community, whether that’s practicing daily positivity,
18 modeling honest communication, or sharing openly about her own difficulties.” *Id.*

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25 **B. Second, even if the Court were to find that Ms. Gomez Velazquez**
26 **presents some risk, restrictions short of her continued physical**
27 **confinement are sufficient to mitigate any risk.**

28 113. Ms. Gomez Velazquez is entitled to a presumption that her continued civil
confinement is unlawfully punitive because the conditions are indistinguishable from, or

1 worse, than those of criminal custody. Ms. Gomez Velazquez's civil incarceration is
2 excessive in relation to the government's interest. *Doe*, 732 F. Supp. 3d at 1088
3 (explaining that due process requires, at minimum, that the conditions of a civil detainee's
4 confinement "must be less restrictive than post-conviction criminal detention"); *id.* at
5 1089 (adding that "harsh conditions multiply the burden on liberty for any given
6 period."); *Cf. Jones*, 393 F.3d at 934. Indeed, while Ms. Gomez Velazquez has been
7 detained, she has been subjected to degrading and harmful conditions of confinement
8 including multiple random searches every day, constant yelling and aggressive behavior
9 from correctional officers, insufficient medical care and access to feminine hygiene
10 products, and receiving tattered clothing and soiled underwear. Exh. A, UKGV Decl. at
11 ¶¶ 74-90.

12 114. Moreover, even if the Court finds that Ms. Gomez Velazquez poses some risk of
13 flight or danger to the community, there are "less harsh" alternatives to continued physical
14 custody available to mitigate those risks. *Doe*, 732 F. Supp. 3d at 1088 (finding that ICE's
15 GPS monitoring program "can significantly mitigate flight risk and potentially mitigate
16 any danger to the community."); *Jones*, 393 F.3d at 934; *see also Thakker v. Doll*, Civ.
17 No. 20-480, 2020 WL 1671563, at *8 (M.D. Pa. Mar. 31, 2020) ("We note that ICE has
18 a plethora of means other than physical detention at their disposal by which they may
19 monitor civil detainees and ensure that they are present at removal proceedings, including
20 remote monitoring and routine check-ins.") (quoting *Robenson J. v. Decker*, No. CV 20-
21 5141 (KM), 2020 WL 2611544, at *7 (D.N.J. May 22, 2020)). Ms. Gomez Velazquez's
22 continued confinement is therefore excessive and unlawfully punitive.

1 115. The Court may consider and order any alternatives to incarceration to mitigate any
2 risks that it determines that Ms. Gomez Velazquez may pose, including any of the
3 conditions that it regularly applies when granting pretrial defendants bail.

4 116. The extraordinary success of ICE's Intensive Supervision Appearance Program
5 ("ISAP") further demonstrates that release on conditions can effectively mitigate any
6 possible risk. ISAP has received compliance rates close to perfect. *See Hernandez v.*
7 *Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (ISAP "resulted in a 99% attendance rate at
8 all EOIR hearings and a 95% attendance rate at final hearings"). Alternatives to detention,
9 moreover, are far less costly for the government than continued incarceration. *See id.* at
10 996-97.

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14 **C. Third, even assuming no alternatives to incarceration could**
15 **mitigate any risk Ms. Gomez Velazquez might pose, the duration**
16 **of her detention may soon exceed the bounds of due process.**

17 117. Even if the Court finds that no alternatives to incarceration would mitigate any risk
18 that Ms. Gomez Velazquez poses, the duration of her detention is approaching, and may
19 soon exceed, the bounds permitted by due process. "At some point [civil] detention can
20 become excessively prolonged, and therefore punitive, resulting in a due process
21 violation." *Torres*, 995 F.3d at 709-10.

22 118. In the context of a criminal defendant's pretrial detention, the Supreme Court
23 upheld a statute creating a categorical presumption of pretrial detention for people
24 convicted of certain crimes but made clear that otherwise permissible detention violated
25 the Constitution once it became prolonged. *Salerno*, 481 U.S. 739 (where the Court found
26 that pretrial detention of criminal defendants under the Bail Reform Act of 1984 did not
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1 violate the substantive or procedural protections of the due process clause of the fifth
2 amendment). Applying *Salerno*, the Ninth Circuit recently held that twenty-one months
3 of pre-trial detention “is approaching the limits of what due process can tolerate” for a
4 defendant awaiting trial who had multiple prior convictions and a history of failing to
5 appear in court. *Torres*, 995 F.3d at 709-10 (holding that “due process demands that the
6 district court begin Torres’s trial or reconsider bail subject to appropriate conditions very
7 soon.”). Importantly, in *Torres* and other post-*Salerno* jurisprudence, the petitioner had
8 already undergone a hearing to determine whether “no bail conditions would reasonably
9 assure [their] appearance at court hearings and the safety of the community”—an inquiry
10 that no adjudicator has yet undertaken in Ms. Gomez Velazquez’s case. *See Torres*, 995
11 F.3d at 700 (referring to provisions of Bail Reform Act at 18 U.S.C. § 3142(e)).

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15 119. Multiple courts have held that far shorter periods of confinement than those
16 presented in Ms. Gomez Velazquez’s case violate the Constitution. *See, e.g., United*
17 *States v. Theron*, 782 F.2d 1510, 1516-17 (10th Cir. 1986) (holding four months pretrial
18 detention “too long” and ordering release within 30 days if trial did not commence);
19 *United States v. Gonzales Claudio*, 806 F.2d 334, 341 (2d Cir. 1986) (holding fourteen-
20 month detention unconstitutional and recognizing that “[d]etention that has lasted for
21 fourteen months and, without speculation, is scheduled to last considerably longer, points
22 strongly to a denial of due process”); *United States v. Zannino*, 798 F.2d 544, 548 (1st
23 Cir. 1986) (denying release on unique facts of case but “assum[ing] that in many, perhaps
24 most, cases, sixteen months would be found to exceed the due process limitations on the
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1 duration of pretrial confinement”); *United States v. Chen*, 820 F. Supp. 1205, 1210 (N.D.
2 Cal. 1992) (one-year detention unconstitutional).

3 120. Ms. Gomez Velazquez’s 12 months-and-counting of confinement, coupled with
4 the fact that Ms. Gomez Velazquez’s detention could potentially continue for years while
5 her immigration proceedings remain pending, suggests that she is likely to approach the
6 duration of civil confinement that three Courts of Appeals, including the Ninth Circuit,
7 recognize as the outer limits of confinement that the Constitution could withstand, even
8 when no conditions of release could accomplish the government’s non-punitive
9 objectives, which is not the case here. *See Torres*, 995 F.3d at 709-710 (21 months);
10 *Gonzales Claudio*, 806 F.2d at 343 (14 months); *Zannino*, 798 F.2d at 548-549 (16
11 months).

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15 **D. This Court has the authority to order Ms. Gomez Velazquez’s**
16 **release to remedy the substantive due process violation.**

17 121. If the Court finds that Ms. Gomez Velazquez’s continued detention is punitive and
18 a substantive due process violation, the only proper remedy is release. That remedy is
19 well within the Court’s habeas power as well as the Court’s equitable powers to remedy
20 a constitutional violation under § 1331.

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22 122. The federal habeas statute directs district courts to “dispose of the matter as law
23 and justice require.” 28 U.S.C. § 2243; *see also Hilton v. Braunskill*, 481 U.S. 770, 775
24 (1987) (explaining that habeas courts have long had “the largest power to control and
25 direct the form of judgment to be entered”) (quoting *In re Bonner*, 151 U. S. 242, 261
26 (1894)).
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1 123. In immigration habeas cases, courts regularly order release upon determining that
2 detention violates substantive due process. *See, e.g., Doe*, 732 F. Supp. 3d at 1090
3 (concluding that petitioner’s continued detention without having been “afforded the
4 procedural protections required...violates his rights under the Due Process Clause of the
5 Fifth Amendment,” and requiring the government to propose an injunction for petitioner’s
6 immediate release “under whatever conditions the government believes will help address
7 its concerns regarding flight risk or danger to the community,” including enrollment in
8 one of ICE’s extraordinarily successful GPS monitoring programs); *Lawson v. Gerlinski*,
9 332 F. Supp. 2d. 735, 744-46 (M.D. Pa. 2004) (concluding that petitioner’s prolonged
10 immigration detention violated substantive due process and ordering release); *see also*
11 *Tuan Thai v. Ashcroft*, 366 F.3d 790, 792 (9th Cir. 2004) (affirming habeas grant requiring
12 release pursuant to *Zadvydas*); *Ekeh v. Gonzales*, 197 F. App’x 637, 638 (9th Cir. 2006)
13 (ordering release pursuant to *Zadvydas*).

14 124. Under such circumstances, district courts may impose conditions of release to
15 manage the governmental interests at stake. *See, e.g., Ortuño v. Jennings*, No. 20-cv-
16 02064-MMC, 2020 WL1701724, at *5 (N.D. Cal. Apr. 8, 2020) (setting conditions of
17 release); *Zepeda Rivas v. Jennings*, No. 20-CV-02731-VC, 465 F. Supp. 3d 1028, 1036
18 (N.D. Cal. 2020) (citing inherent habeas authority to release on bail); *id.*, Dkt. 543 (N.D.
19 Cal. Aug. 13, 2020) (setting multiple conditions of release); *id.*, Dkt. 471 (N.D. Cal. July
20 31, 2020) (conditioning release on attendance at group sobriety meetings).

21 125. Likewise, the Ninth Circuit has held that district courts have the authority to grant
22 injunctive relief—including release—to remedy a constitutional violation. *See Roman*,

1 977 F.3d at 941-42. “Federal Courts possess whatever powers are necessary to remedy
2 constitutional violations because they are charged with protecting those rights.” *Stone v.*
3 *City & County of San Francisco*, 968 F.2d 850, 861 (9th Cir. 1992).

4 126. Whether it is under the habeas statute, or its broad powers to craft adequate
5 equitable relief, this Court has authority to order release and craft appropriate conditions
6 as necessary.
7

8 127. Here, because Ms. Gomez Velazquez’s prolonged detention is excessive and
9 unnecessary in relation to any governmental interests, the Court must release her.
10

11 **II. Alternatively, Ms. Gomez Velazquez’s prolonged categorical detention**
12 **without an individualized determination violates procedural due**
13 **process.**

14 128. Because Ms. Gomez Velazquez is subject to punitive civil incarceration in
15 violation of substantive due process, this Court does not need to reach the question of
16 whether her detention also violates procedural due process. However, should the Court
17 reach this issue, this Court should find that Ms. Gomez Velazquez’s prolonged detention
18 violates procedural due process absent an individualized inquiry into whether the
19 government’s justification for her confinement outweighs her “constitutionally protected
20 interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citations omitted).
21

22 129. Courts in the Ninth Circuit have taken different approaches to determining whether
23 prolonged detention violates procedural due process. However, “[n]early all district
24 courts that have considered the issue agree that prolonged mandatory detention pending
25 removal proceedings, without a bond hearing, will—at some point—violate the right to
26 due process.” *Zagal-Alcaraz v. ICE Field Off. Dir.*, No. 3:19-CV-01358-SB, 2020 WL
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1 1855189 (D. Or. Apr. 13, 2020), adopting report and recommendation, *Zagal-Alcaraz v.*
2 *ICE Field Off.*, No. 3:19-CV-01358-SB, 2020 WL 1862254, *3 (D. Or. Mar. 25, 2020)
3 (quoting *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1116 (W.D. Wash. 2019)); *see also*
4 *Yagao v. Figueroa*, No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, *2 (S.D. Cal. Mar.
5 29, 2019) (“[T]he Court agrees with the many district courts finding that prolonged
6 detention without a bond hearing likely violates due process.”). At a minimum, once
7 detention continues past one year, as it will has for Ms. Gomez Velazquez, “courts
8 become extremely wary of permitting continued custody absent a bond hearing.” *Yagao*,
9 No. 17-cv-2224-AJB-MDD, 2019 WL 1429582 at *2 (internal citation omitted).

10 130. Many district courts in the Ninth Circuit apply the due process framework
11 articulated by the Supreme Court in *Mathews v. Eldridge* to determine whether ongoing
12 detention under 8 U.S.C. § 1226(c) violates a petitioner’s due process rights. *Mathews v.*
13 *Eldridge*, 424 U.S. 319 (1976); *See e.g. Mitka v. ICE Field Off. Dir.*, No. C19-193 MJP,
14 2019 WL 5892025, *2-3 (W.D. Wash. Nov. 12, 2019).

15 131. Other district courts find the *Mathews* test inapplicable. These courts apply a
16 variety of multi-factor tests to determine whether an individual subject to prolonged and
17 unreviewed detention under § 1226(c) must be given a bond hearing.

18 132. In *German Santos v. Warden Pike Correctional Facility*, the Third Circuit
19 articulated its own multi-factor test, emphasizing that determining the reasonableness of
20 an individual’s unreviewed detention is a “highly fact-specific inquiry.” 965 F.3d 203,
21 211 (3d Cir. 2020).

1 133. Ms. Gomez Velazquez asserts, as many district courts have found, that *Mathews*
2 is the applicable test, but under any of the possible tests, Ms. Gomez Velazquez is entitled
3 to a bond hearing.

4
5 **A. The *Mathews v. Eldridge* balancing test**

6 134. The *Mathews* test for procedural due process claims balances: (1) the private
7 interest threatened by governmental action; (2) the risk of erroneous deprivation of such
8 interest and the value of additional or substitute safeguards; and (3) the government
9 interest. 424 U.S. at 335. Here, each factor weighs in Ms. Gomez Velazquez's favor,
10 requiring this Court to promptly order a hearing before a neutral adjudicator to evaluate
11 whether the government can justify her ongoing detention.
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14 135. First, Ms. Gomez Velazquez has a weighty interest in her own liberty, the core
15 privacy interest at stake here. *Zadvydas*, 533 U.S. at 690 (“Freedom from
16 imprisonment...lies at the heart of the liberty [the Due Process Clause] protects.”). Ms.
17 Gomez Velazquez, who is being held in “incarceration-like conditions,” has an
18 overwhelming interest here, regardless of the length of her immigration detention,
19 because “any length of detention implicates the same” fundamental rights. *Jennings*, No.
20 2020 WL 7626414, at *6; *see also Martinez Leiva v. Becerra*, No. 23-CV-02027-CRB,
21 2023 WL 3688097, *7 (N.D. Cal. May 26, 2023) (The interest in ‘freedom from
22 prolonged detention’ is ‘unquestionably substantial.’”) (quoting *Singh*, 638 F.3d at 1208);
23 *I.E.S. v. Becerra*, No. 23-CV-03783-BLF, 2023 WL 6317617, *8 (N.D. Cal. Sept. 27,
24 2023) (same).
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1 136. Ms. Gomez Velazquez’s private interest is particularly profound because she has
2 been detained for over one year without any review by a neutral arbiter. Her time in civil
3 detention is now eight times the length of the “brief” detention contemplated by the
4 Supreme Court in *Demore v. Kim*, 538 U.S. 510, 530 (citing an average detention length
5 of one and a half months for cases that do not involve an appeal).

7 137. As Ms. Gomez Velazquez continues to mount a good-faith defense to deportation,
8 neither her release nor her removal is remotely in sight. Exh. B, Ramirez Decl. ¶¶ 14-16;
9 *See Zadvydas*, 533 U.S. at 690-91, 696 (strength of liberty interest increases as period of
10 confinement grows); *Diouf*, 634 F.3d at 1091-92 (“When detention crosses the six-month
11 threshold and release or removal is not imminent, the private interests at stake are
12 profound.”) *abrogated on other grounds as recognized in Rodriguez Diaz v. Garland*, 53
13 F.4th 1189 (9th Cir. 2022). She is facing the prospect of several additional months,
14 possibly years, of unreviewed detention. *See* Exh. B, Ramirez Decl. at ¶¶ 14-15
15 (explaining that Ms. Gomez Velazquez’s August 27, 2025 individual hearing is likely to
16 be continued for several months and that the appeals process to the BIA and the Ninth
17 Circuit “typically takes years.”).

21 138. Second, the risk of erroneous deprivation of Ms. Gomez Velazquez’s liberty is
22 high, as she has been detained since July 31, 2024 without any evaluation of whether the
23 government can justify detention under her individualized circumstances. “[T]he risk of
24 an erroneous deprivation of liberty in the absence of a hearing before a neutral
25 decisionmaker is substantial.” *Diouf*, 634 F.3d at 1092. Similarly, “the probable value of
26 additional procedural safeguards—an individualized evaluation of the justification for
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1 [her] detention—is high, because Respondents have provided virtually no procedural
2 safeguards at all.” *Jimenez*, 2020 WL 510347 at *3 (granting habeas petition for an
3 individual who had been detained for one year without a bond hearing). As articulated
4 *supra* I.A.1. and I.A.2., Ms. Gomez Velazquez is an excellent candidate for bond because
5 she is neither a flight risk nor a danger to the community; therefore, there is significant
6 value in granting her additional safeguards in the form of a bond hearing.
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8 139. Ms. Gomez Velazquez has not received an individualized evidentiary hearing
9 before a neutral decisionmaker in the over-a-year that she has been detained. An
10 evidentiary hearing is a valuable procedural safeguard because the government has not
11 proven to a neutral decisionmaker that Ms. Gomez Velazquez’s detention is warranted or
12 that her ongoing detention is necessary. To the contrary, Ms. Gomez Velazquez neither
13 poses a danger nor a flight risk. *See supra* I.A.1. (Ms. Gomez Velazquez does not pose a
14 flight risk because if released, she will also be on parole and under the supervision of
15 CDCR; she fears for her life in Mexico and is fighting for her ability to lawfully remain
16 in the United States; and, she has concrete plans to build a life in the United States); *supra*
17 I.A.2. (explaining that Ms. Gomez Velazquez is not a danger to her community because:
18 her criminal conviction relates to conduct that occurred over 20 years ago, and in fact,
19 under reforms to California’s criminal laws that outlawed various theories liability, Ms.
20 Gomez Velazquez would not be convicted of the same crimes today; Ms. Gomez
21 Velazquez has participated in, and facilitated, over 90 self-help programs; and she
22 mentors high school students who value their relationship with her deeply.).
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1 140. Third, the government's interest in continuing to detain Ms. Gomez Velazquez
2 without providing any neutral review is very low. *See Mathews*, 424 U.S. at 335. The
3 specific interest at stake here is neither the government's interest in enforcing this
4 country's immigration laws nor is it the government's ability to continue to detain Ms.
5 Gomez Velazquez, it is solely the government's ability to continue detaining Ms. Gomez
6 Velazquez for months, and possibly years, *without any individualized review*. *See*
7 *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953 (N.D. Cal. 2019). "[T]he government has
8 no legitimate interest in detaining individuals who have been determined not to be a
9 danger to the community and whose appearance at future immigration proceedings can
10 be reasonably ensured by a lesser bond or alternative conditions." *Hernandez*, 872 F.3d
11 at 994.
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15 141. Moreover, the bond hearing Ms. Gomez Velazque seeks is a routine process that
16 the government provides on a daily basis and would impose only a de minimis burden on
17 the government. The government has conceded as much in similar cases. *See id.*; *De Paz*
18 *Sales v. Barr*, No. 19-cv- 04148-KAW, 2019 WL 4751894, at *7 (N.D. Cal. Sept. 30,
19 2019) ("[T]he Government does not argue there are any costs to providing a bond
20 hearing."). Even assuming there are some fractional costs borne by the government, they
21 are "easily outweighed by the reduction in the risk of erroneous deprivation of liberty that
22 would result from the additional safeguard" of a bond hearing. *Hernandez*, 872 F.3d at
23 994.
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B. The *German Santos* reasonableness test

142. The Third Circuit’s multi-factor test in *German Santos* provides an alternative, but related, test to determine whether an individual’s detention without process violates constitutional bounds. This test looks at: (1) duration of detention; (2) whether detention is likely to continue; (3) reasons for delay; and (4) whether conditions of confinement are meaningfully different from criminal punishment. *German Santos*, 965 F.3d at 210-11; see also *Arido-Sorro v. Garland*, 2024 WL 4393264, *3 (D. Ariz., 2024); *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022) (weighing three factors—(1) total length of detention to date, (2) likely duration of future detention, and (3) delays caused by both sides—to “asses[s] whether an individual’s prolonged mandatory detention under 8 U.S.C. § 1226(c) violate[d] due process.” Ms. Gomez Velazquez likewise prevails under the *German Santos* factors.

143. Duration of Detention: First, Ms. Gomez Velazquez’s detention is prolonged at over 11 months. The duration of detention is the “most important factor,” *German Santos*, 965 F.3d at 211. As “detention continues past a year, courts become extremely wary of permitting continued custody absent a bond hearing.” *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, *3 (N.D. Cal. Jan. 25, 2019). Ms. Gomez Velazquez has now surpassed one year of unreviewed custody and will far surpass that mark absent this court’s intervention. See *Adrio-Sorro*, 2024 WL 4393264 at *4 (reasoning that “[i]n general, as detention continues past a year, courts become extremely wary of permitting continued custody absent a bond hearing.”) (internal citation omitted).

1 144. Likelihood Detention will Continue: Second, Ms. Gomez Velazquez’s detention
2 is likely to continue with “no remotely certain end in sight as to her custody.” *Romero*
3 *Romero v. Wolf*, No. 20-CV-08031-TSH, 2021 WL 254435, *4 (N.D. Cal. Jan. 26, 2021);
4 *see also Adrio-Sorro*, 2024 WL 4393264 at *4 (acknowledging that the “possibility of
5 prolonged appeals weighs in favor of finding that continued detention without a bond
6 hearing violates due process.”). Without this court’s intervention, Ms. Gomez Velazquez
7 will remain detained for additional months, and possibly years, as she pursues her case
8 for relief.
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11 145. With respect to her hearings before the IJ, those will continue for at least several
12 months, and possibly longer. Ms. Gomez Velazquez is scheduled for an individual
13 hearing before the Eloy immigration court on August 27, 2025. However, it is unlikely
14 that she will be able to present her full case, including testimony by the country conditions
15 expert, in the hour-and-a-half window for which she has been scheduled. Exh. B, Ramirez
16 Decl. at ¶ 14. As a result, her individual hearing is likely to be continued to a second
17 hearing; Ms. Gomez Velazquez has no control over when this second hearing will be
18 scheduled, as it depends entirely on the immigration judge’s calendar. *Id.* (“it can often
19 take a few months” when an individual hearing is continued “because Immigration Judges
20 calendars are full, and cases are often double booked.”).
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24 146. Moreover, if, after Ms. Gomez Velazquez presents her full case, the immigration
25 judge denies her relief from removal, she faces the prospect of remaining detained for
26 years because she intends to appeal any negative decision, first to the Board of
27 Immigration appeals and then to the Ninth Circuit. *Id.* at ¶ 14-15, 17 (explaining that “the
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1 appeals process can take more than a year and typically takes years.”); Exh. A, UKGV
2 Decl. at ¶ 100.

3 147. In sum, given that Ms. Gomez Velazquez detention is likely to last significantly
4 longer than the year she has already been detained—at least several more months and
5 possibly years—this factor clearly weighs in favor of Ms. Gomez Velazquez. *See*
6 *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, *5 (N.D. Cal. Jan. 25,
7 2019) (finding that detention lasting at least another three months on top of detention that
8 has already lasted one year weighed in favor of a bond hearing).

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11 148. Reasons for Delay: Third, Ms. Gomez Velazquez cannot be faulted for the two
12 continuances she requested in her removal proceedings. Courts look to the reason for
13 delay, such as the individual’s requests for continuances, but do not hold her “good-faith
14 challenge to [her] removal against [her], even if [her] appeals or applications for relief
15 have drawn out the proceedings.” *German Santos*, 965 F.3d at 211; *see Adrio-Sorro*, 2024
16 WL 4393264 at *5 (even where petitioner contributed to delays in the proceedings by
17 asking for more time, nothing in the record indicated “that those delays were attributable
18 to dilatory tactics” and so petitioners requests for continuances could not be held against
19 the them); *see also Romero Romero*, 2021 WL 254435 at *4 (it is “[in]compatible with
20 our system of government that Petitioner should simply have to forfeit his due process
21 rights because he is choosing (if one can really call it a choice) to pursue the rights
22 provided to him by our laws.”).

23
24 149. Ms. Gomez Velazquez has been diligent in pursuing relief against removal, timely
25 complying with all deadlines in her case. Ms. Gomez Velazquez also asserts relief in good
26

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1 faith and has a meritorious case for relief from removal. *See* Exh. B, Declaration of Cindy
2 Ramirez ¶¶ 18-21. The only delays that can be attributed to Ms. Gomez Velazquez are
3 when she requested two continuances, at her first and second master calendar hearings,
4 to be able to find an attorney to represent her. *Id.* at ¶¶ 8-9; *see also* Exh. A, UKGV Decl.
5 at ¶¶ 62-66. Her inability to find an attorney between her first and second hearings was
6 due to an administrative error that was outside of Ms. Gomez Velazquez's control. *Id.*

7
8 150. On the other hand, the government has caused far more significant delays in Ms.
9 Gomez Velazquez's case and has done so with no apparent justification. Ms. Gomez
10 Velazquez was suddenly transferred from Tacoma, Washington to Eloy, Arizona two
11 weeks before her individual hearing was scheduled. When asked to provide a justification
12 for her sudden transfer, ICE informed Ms. Gomez Velazquez's attorneys that she was
13 being transferred for medical purposes. Exh. B, Ramirez Decl. at ¶ 12. This is a puzzling
14 justification given the significant challenges Ms. Gomez Velazquez has faced trying to
15 access adequate healthcare at Eloy, and even more so because Ms. Gomez Velazquez did
16 not have problems accessing healthcare when ICE decided to transfer her. Exh. A, UKGV
17 Decl. at ¶ 82.

18
19 151. Regardless, ICE's decision to transfer Ms. Gomez Velazquez resulted in a delay
20 of at least four additional months in detention. By comparison, Ms. Gomez Velazquez
21 has only asked for two continuances to exercise her statutory and due process right to
22 counsel. This factor either favors Ms. Gomez Velazquez, given the government's dubious
23 explanation for her last-minute transfer, or does not "favor either side." *German Santos*,
24 965 F.3d at 212.

1 152. Conditions of Confinement as Compared to Criminal Incarceration: Finally, Ms.
2 Gomez Velazquez's conditions of confinement are not meaningfully different from
3 criminal punishment. In fact, for Ms. Gomez Velazquez the conditions of confinement
4 are the worst she has experienced in her entire life, far worse than criminal punishment.
5
6 *See* Exh. A, UKGV Decl. at ¶¶ 74-90. Persons detained under the immigration statutes
7 "are subject to civil detention rather than criminal incarceration. The more that the
8 conditions under which the [noncitizen] is being held resemble penal confinement, the
9 stronger his argument that he is entitled to a bond hearing." *De Paz Sales* 2019 WL
10 4751894 at *6 (internal quotation marks omitted).

11
12 153. Ms. Gomez Velazquez is detained at the Eloy Detention Center, which has gained
13 notoriety as the "deadliest immigration detention center in the United States." The Eloy
14 facility has a record of deplorable conditions that range from inadequate medical care and
15 a lack of access to hygienic clothes, to frequent lockdowns. Facility staff are verbally
16 abusive towards Ms. Gomez Velazquez and yell at her constantly. Exh. A, UKGV Decl.
17 at ¶ 75. She is also subject to excessive and extensive security pat downs of her body and
18 cell multiple times a day, far more than she was ever searched in prison. *Id.* at ¶ 76.
19 "Despite its civil label, [Ms. Gomez Velazquez's] detention is indistinguishable from
20 criminal punishment." *German Santos*, 965 F.3d at 213; *see also Masood v. Barr*, No. 19-
21 CV-07623-JD, 2020 WL 95633, *4 (N.D. Cal. Jan. 8, 2020) (finding incarceration in a
22 jail-like facility that "has serious operational problems" approximates penal
23 confinement). As such, this factor weighs decisively in Ms. Gomez Velazquez's favor.
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1 154. Applying these four factors to Ms. Gomez Velazquez's case leaves little doubt her
2 detention has become unconstitutionally prolonged, and that she is constitutionally
3 entitled to an individualized custody evaluation.
4

5 **C. At any hearing, the government must justify Ms. Gomez**
6 **Velazquez's detention by clear and convincing evidence.**

7 155. Where a custody hearing is warranted as a procedural safeguard against
8 unreasonably prolonged detention, the government bears the burden of justifying
9 continued confinement by clear and convincing evidence. *Singh*, 638 F.3d at 1205;
10 *Decker*, 103 F.4th at 157-58 (observing that where "an individual's liberty is at stake, the
11 Supreme Court has consistently used [clear and convincing] evidentiary standard for
12 continued detention") (internal citations omitted); and at 159 (reiterating that the
13 government bears the burden of meeting this standard even where an individual is
14 detained under §1226(c)); *see also I.E.S.*, 2023 WL 6317617 at *10 (finding that the Ninth
15 Circuit's reasoning in *Singh* applies equally to cases arising under § 1226(c) because "it
16 would be improper to ask [petitioner] to 'share equally with society the risk of error when
17 the possible injury to the individual'—deprivation of liberty—is so significant.") (internal
18 citation omitted); *Martinez Leiva v. Becerra*, No. 23-CV-02027-CRB, 2023 WL
19 3688097, 9 (N.D. Cal. May 26, 2023) (finding the same); *Gomez-Ochoa v. Lynch*, No.
20 CV1601646PHXJTBBSB, 2017 WL 913597, *6 (D. Ariz. Feb. 8, 2017) (requiring
21 government to show by clear and convincing evidence that individual was a flight risk or
22 danger to the community during custody redetermination hearing), report and
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1 recommendation adopted, *Gomez-Ochoa v. Lynch*, No. CV1601646PHXJJTBSB, 2017
2 WL 897777 (D. Ariz. Mar. 7, 2017).

3 156. Moreover, at the evidentiary hearing, the adjudicator should consider alternatives
4 to detention and Ms. Gomez Velazquez's financial circumstances in determining whether
5 further detention is warranted and the conditions of his release. *See, e.g., Hernandez*, 872
6 F.3d at 994 ("If the government is setting monetary bonds to ensure appearance at future
7 proceedings, there is no legitimate reason for it not to consider the individual's financial
8 circumstances and alternative conditions of release."); *Decker*, 103 F.4th at 157-58
9 (finding the district court properly directed the Immigration Judge conducting petitioner's
10 bond hearing to consider petitioner's ability to pay and alternative means of assuring his
11 appearance).
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15 **CLAIMS FOR RELIEF**

16 **FIRST CLAIM FOR RELIEF**

17 **Violation of the Fifth Amendment: Substantive Due Process**

18
19 157. Ms. Gomez Velazquez re-alleges and incorporates by reference the paragraphs
20 above.
21

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

24 159. The government has two legitimate interests that may be served by civil
25 immigration detention: preventing flight from removal proceedings and protecting the
26 community.
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1 160. Prolonged civil immigration detention is punitive in violation of substantive due
2 process when (1) a person subjected to prolonged civil immigration detention poses no
3 risk of flight or danger to the community; or (2) restrictions short of physical custody are
4 sufficient to mitigate any risk a detained person poses.
5

6 161. Ms. Gomez Velazquez does not pose a danger nor a flight risk; and her ongoing
7 detention is excessive in relation to any legitimate government interest, which would be
8 amply satisfied by her release on appropriate conditions.
9

10 162. For each of these reasons, Ms. Gomez Velazquez's ongoing prolonged detention
11 violates substantive due process.
12

13 **SECOND CLAIM FOR RELIEF**

14 **Violation of the Fifth Amendment: Procedural Due Process**

15 163. Ms. Gomez Velazquez re-alleges and incorporates by reference the paragraphs
16 above.
17

18 164. The Due Process Clause of the Fifth Amendment forbids the government from
19 depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.
20

21 165. Ms. Gomez Velazquez's detention has become prolonged as she has been detained
22 for 12 months already and faces months, possibly years, of continued detention while her
23 immigration case is decided.

24 166. The Due Process Clause requires additional safeguards in the form of an
25 evidentiary hearing assessing the propriety of Ms. Gomez Velazquez's continued
26 detention. According to the procedural due process tests applied by courts across the
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28

1 country, including in this district, her unreviewed confinement has become unreasonably
2 prolonged.

3 167. The Due Process Clause requires the government to establish, at an individualized
4 hearing before a neutral decisionmaker, that Ms. Gomez Velazquez's prolonged detention
5 is justified by clear and convincing evidence of flight risk or danger, even after
6 consideration of whether alternatives to detention could sufficiently mitigate that risk.
7

8 168. Ms. Gomez Velazquez's ongoing and prolonged detention without an
9 individualized evidentiary hearing violates procedural due process.
10

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Ms. Gomez Velazquez respectfully requests that this Court:
13

- 14 1) Assume jurisdiction over this matter;
- 15 2) Declare that Ms. Gomez Velazquez's ongoing prolonged detention violates her
16 right to Substantive Due Process under the Fifth Amendment; or, in the alternative, that
17 it violates her right to Procedural Due Process under the Fifth Amendment;
- 18 3) Issue a Writ of Habeas Corpus and order Respondents to immediately release Ms.
19 Gomez Velazquez from DHS's physical custody, or enjoin Respondents from continuing
20 to detain Ms. Gomez Velazquez.
- 21 4) In the alternative, Issue a Writ of Habeas Corpus and, promptly thereafter, hold
22 such a hearing or order such a hearing held before an Immigration Judge within 14 days,
23 where Respondents must establish the necessity of further detention by clear and
24 convincing evidence, and where the adjudicator evaluates Ms. Gomez Velazquez's ability
25 to pay in setting bond, and considers alternative conditions of release that reasonably
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1 assure the safety of the community and Ms. Gomez Velazquez's future appearances; or
2 enjoin the government from continuing to detain Ms. Gomez Velazquez absent a hearing
3 before this Court or an Immigration Judge within 14 days where the government must
4 establish the necessity of further detention by clear and convincing evidence, and where
5 the adjudicator evaluates Ms. Gomez Velazquez's ability to pay in setting bond, and
6 considers alternative conditions of release that reasonably assure the safety of the
7 community and Ms. Gomez Velazquez's future appearances;
8

9
10 5) Award Ms. Gomez Velazquez reasonable attorneys' fees, costs, and other
11 disbursements in this action permitted under the Equal Access to Justice Act ("EAJA"),
12 as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under
13 law; and,
14

15 6) Grant any other relief that the Court deems just and proper.
16
17

18 Dated: August 7, 2025

Respectfully submitted,

19 s/ Ami Hutchinson

20 Ami Hutchinson

21 Matthew H. Green

22 Judah Lakin

Cindy Edith Ramirez

23 Sandhya Nadahur

24 *Pro Bono Attorneys for Petitioner*
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26
27
28

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

I represent Petitioner, Ursula Karina Gomez Velazquez, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 7th day of August, 2025.

s/Ami Hutchinson
Signature