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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Y.M.,

Petitioner,

v.

MINGA WOFFORD, Facility Administrator of Mesa Verde ICE Processing Center; ORESTES CRUZ, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the United States Department of Homeland Security, PAMELA BONDI, Attorney General of the United States, acting in their official capacities,

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

IMMIGRATION HABEAS CASE

INTRODUCTION

1. Petitioner Y.M. ("Y.M." or "Petitioner")[1] respectfully petitions this Honorable Court for a writ of habeas corpus to remedy his unlawful detention by Respondents (the "Government"). Y.M. has been incarcerated by Immigration and Customs Enforcement ("ICE") at Mesa Verde ICE Processing Center ("Mesa Verde") pending removal proceedings. He has been civilly detained for over 26 months without any definite end in sight, and without having had any opportunity for a neutral judge to review whether he is a risk of flight or danger to the community.

2. Petitioner is a citizen of Haitian who was brought to the U.S. when he was ten-years-old to escape politically-motivated persecution after the 1991 coup d'etat. Exh. A, Notice to Appear. As a young boy struggling to fit into his new country, Y.M. was pressured and recruited by his peers to join a local street gang. *See* Declaration of Y.M. ("Decl. of Y.M."). He was groomed to participate in the gang's criminal activities and rose through the ranks, until the law caught up to him as a young adult. *Id.* Y.M. served nearly twenty years in federal prison on drug charges and is currently detained pursuant to 8 U.S.C. § 1226(c), which renders him statutorily ineligible for a bond hearing. He is pending removal on the basis of Immigration & Nationality Act ("INA") Section 212(a)(7)(A)(i)(I) or (II) and is pursuing protection under the Convention Against Torture ("CAT"). Exh. A; Decl. of Y.M.. His claim for relief is currently before Ninth Circuit Court of Appeals. Exh. H.

3. Y.M.'s prolonged detention without a neutral hearing on flight risk or danger violates the Due Process Clause of the Fifth Amendment. He asks this Court to issue a writ of habeas corpus and order his release within 14 days unless the Government schedules a bond hearing before an immigration judge at which the Government must justify his continued detention by clear and convincing evidence.

JURISDICTION

4. Y.M. is detained in the custody of Respondents at Mesa Verde ICE Processing Center.

[1] Y.M. has filed an administrative motion to proceed under pseudonym concurrently with this Petition. Y.M.'s full legal name and A-number will be provided to the assigned attorney within the U.S. Department of Justice.

5. Jurisdiction is proper over a writ of habeas corpus pursuant to Art. 1 § 9, cl. 2 of the United States Constitution (the Suspension Clause); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1331 (federal question). This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution, and the Immigration & Nationality Act ("INA"). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

6. Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar review of legal challenges to prolonged immigration detention); *see also id.* at 876 (Breyer, J., dissenting) ("8 U.S.C. § 1252(b)(9) . . . by its terms applies only with respect to review of an order of removal") (internal quotation marks and brackets omitted).

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C. § 2241(a) because this is the district in which Petitioner is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024)

PARTIES

8. Petitioner Y.M. is currently detained by Respondents at Mesa Verde in Bakersfield, California pending removal proceedings. He has been detained since May 2023 without any individualized inquiry into ICE's justification for his detention.

9. Respondent Minga Wofford is the Facility Administrator of Mesa Verde and is Petitioner's immediate custodian at the facility where Petitioner is detained. *See Doe*, 108 F.4th at 1194-97.

10. Respondent Orestes Cruz is the Acting Field Office Director for the San Francisco Field Office of ICE Enforcement and Removal Operations. As such, Respondent Cruz is responsible for overseeing the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner at Mesa Verde. He is named in his official capacity.

11. Respondent Todd M. Lyons is the Acting Director of ICE. Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those relating to the detention and removal of immigrants. He is named in his official capacity.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"), and is responsible for overseeing the Department and its sub-agency, ICE, and has ultimate responsibility for the detention of noncitizens in civil immigration custody. She is named in her official capacity.

13. Respondent Pamela Bondi is the Attorney General of the United States and the head of the Department of Justice ("DOJ"), which encompasses the Board of Immigration Appeals ("BIA") and immigration judges as part of its sub-agency, the Executive Office for Immigration Review ("EOIR"). She is empowered to oversee the adjudication of removal and bond hearings and by regulation has delegated that power to the nation's immigration judges and the BIA. She is named in her official capacity.

EXHAUSTION

14. Y.M. is not required to exhaust administrative remedies. Exhaustion for habeas claims is prudential, not jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). The prudential exhaustion requirement may be waived if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury will result." *Id.* at 1000.

15. Administrative remedies would be futile, inadequate, and not efficacious for Petitioner. As an initial matter, Section 1226(c) prohibits the immigration courts from conducting individualized custody hearings for people detained under its terms, which means Petitioner has no administrative remedy to exhaust. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 847 (2018) (holding that 1226(c) mandates detention without a bond hearing until the conclusion of removal proceedings). Even if Petitioner had some administrative avenue to pursue, exhausting his constitutional claim there would be futile because the immigration courts and the BIA do not have the authority to rule on constitutional questions. *See Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996) (per curiam) ("the inability of the INS to adjudicate the constitutional claim completely undermines most, if not all, of the purposes underlying exhaustion").

REQUIREMENTS OF 28 U.S.C. §2243

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

17. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

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

STATEMENT OF FACTS

19. Y.M. was born in Haiti. When he was around ten-years-old, his grandfather was murdered for his support of then-President Aristide. Decl. of Y.M. at ¶1. After his grandfather was killed, his father told him he could be next and took him to flee Haiti. *Id.*

20. In 1992, Y.M. was granted parole and permitted to enter into the United States under INA § 212(d)(5) [8 U.S.C. § 1182] for the purpose of applying for asylum. Exh. A. He was ten-years-old and has lived in the United States since. Decl. of Y.M. at ¶1.

21. Y.M.'s family re-settled in the "Little Haiti" enclave in Miami, a low-income working-class neighborhood filled with gangs and street violence. Decl. of Y.M. at ¶¶ 6-8. Because his father and step-mother had to work multiple jobs to make ends meet, Y.M. was left to fend for himself as a young boy in a new environment. *Id.* He struggled to adapt and make friends, and he was often picked on because his family was poor. *Id.* His desire to fit in as a young boy led him to become friends with boys in the

neighborhood who were part of the [redacted] group and ultimately resulted in his recruitment into the [redacted] street gang. *Id.*

22. Y.M. was initially unaware that [redacted] was known by others to be a gang and was involved in criminal activity. *Id.* However, he was young and impressionable. His desire to fit in and have a social group led to him getting more involved in [redacted]'s criminal activities. *Id.* He started working for the gang as a schoolkid, and over time, worked his way up. *Id.* [redacted] *Id.*

23. Once he became an adult, the law started catching up to Y.M. In 2005, he was arrested on federal drug-related and firearm charges and was held in custody. Decl. of Y.M. at ¶9. In 2006, he pled to 21 U.S.C. §§ 846, 841(b)(1)(B), 851 (conspiracy to possess with intent to distribute 5 grams or more of cocaine base); 18 U.S.C. § 924(c)(1)(A)(i) (possession of a firearm in furtherance of a drug trafficking crime); 18 U.S.C. §§ 922(g)(1) and 924(e) (possession of a firearm by a convicted felon). *Id.* In consideration of his youth, Y.M. was sentenced to a total of 20 years in federal prison. *Id.* He completed his sentence in May 2023 and was immediately transferred to ICE custody, where he currently remains held pursuant to 8 U.S.C. §1226(c).

24. Y.M.'s time in federal custody is the first time in his adult life that he has lived outside the control and influence of the [redacted]. He used the opportunity to accept the consequences of his past lifestyle and engaged in significant rehabilitation and personal transformation. Decl. of Y.M. at ¶¶ 12-17. He now understands his triggers, careless acts, and decisions, and can comprehend all direct and indirect damage he caused. *Id.* He has now completely renounced his criminal past and gang associations, and he is dedicated to making his community a better place to live. *Id.*

25. Y.M. completed numerous academic courses and vocational training programs while in federal criminal custody, earning credits towards his GED and certifications in HVADS awareness, self-control, substance abuse management, drug and alcohol counseling, food safety, typing, parenting, carpentry training, refrigeration, air conditioning, and sewing. *Id.*; *see also* Exhs. E and F. He also participated in self-help groups and shares his experience as a survivor of abuse and trauma with others who are feeling hopeless in an effort to help them avoid the mistakes he made. Decl. of Y.M. at ¶¶ 15, 17.

26. Y.M. has strong family ties and community support in the U.S., with whom he has maintained close contact throughout his incarceration. Decl. of Y.M. at ¶¶18-21. He speaks regularly with his family in the U.S. His sister, father, and two stepmothers live in Florida. *Id.* He also has a stepbrother in California and several uncles in New York, and he is also a proud uncle to his sister's three children. *Id.* Y.M. is especially close with his sister, who is eager to provide him with housing and support upon his release. Exh. B, Declaration of Natasha M.

27. Y.M. has attempted to keep in touch with his family in Haiti, but it is nearly impossible because his family has split up, are in hiding, and are on the run from place to place because they are scared of retaliation by the gangs [redacted]. Decl. of Y.M. at ¶¶ 10, 21. This fear is not theoretical. In 2023, just around when Y.M. was due to complete his federal sentence, armed men wearing gang patches broke into Y.M.'s mother's home in Haiti. *Id.* They demanded to know Y.M.'s whereabouts and threatened to kill everyone in the house when he returned. *Id.* Y.M.'s family sought the assistance of a lawyer to file a police report, and that lawyer was subsequently shot and killed in retaliation. *Id.* Y.M.'s family had no choice but to flee their house and are now in hiding. *Id. See also* Exh. D., Declaration of Roberto Fleuranvil.

28. Y.M. is currently in removal proceedings and, because of the threats against him, he is seeking mandatory protection under the Convention Against Torture ("CAT"). His CAT claim is supported by expert testimony. *See* Exh. C., Declaration of Brian Concannon Jr.

Procedural History of Removal Proceedings

29. Y.M. was paroled into the United States under INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)] to apply for asylum. Exh. A. On February 2, 2006, DHS filed a Notice to Appear in immigration court charging Y.M. as removable under INA 212(a)(7)(A)(i)(I) or (II). Exh. A. When Y.M. did not appear for his proceedings—because he was in criminal custody—the immigration judge ("IJ") ordered his removal *in absentia*. Y.M. filed a motion to reopen the in absentia order on the basis that he had been held in criminal custody when it was issued.

30. On June 21, 2023, the immigration judge granted reopening. *Id.* Y.M. subsequently plead to the factual allegations and charge of removal in his NTA and filed a Form I-589 in immigration court to pursue protection under CAT. Decl. of Y.M. at ¶5.

31. On February 18, 2025, the IJ issued an oral decision denying Y.M.'s application for CAT relief. Exh. G. Y.M. appealed to the Board of Immigration Appeals ("BIA"), and the BIA dismissed his case on August 15, 2025. *Id.* Y.M. subsequently filed a Petition for Review before the Ninth Circuit Court of Appeals, and a temporary judicial stay on his removal order is in effect pursuant to Ninth Circuit General Order 6.4(c). Exh. H.

LEGAL FRAMEWORK

A. Due Process Does Not Permit Prolonged Immigration Detention Without a Bond Hearing

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

33. Due process requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotation marks omitted). In the immigration context, due process requires that the government provide bond hearings to noncitizens facing prolonged detention. "The Due Process Clause foresees eligibility for bail as part of due process" because "[b]ail is basic to our system of law." *Jennings v. Rodriguez*, 138 S. Ct. 830 at 862 (Breyer, J., dissenting) (internal quotations and citations omitted).

34. While the Supreme Court upheld the mandatory detention of a noncitizen under Section 1226(c) in *Demore*, it did so based on the petitioner's concession of deportability and the Court's understanding that detentions under Section 1226(c) are typically "brief." *Demore*, 538 U.S. at 522 n.6, 528. Where a

noncitizen has been detained for a prolonged period or is pursuing a substantial defense to removal or claim to relief, due process requires an individualized determination that such a significant deprivation of liberty is warranted. *Id.* at 532 (Kennedy, J., concurring) ("individualized determination as to his risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"). *See also Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) ("lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (in Eighth Amendment context, "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

35. This is not a controversial proposition. Multiple Circuit Courts have recognized that due process places a limit on ICE detention. *See Black v. Decker*, 103 F.4th 133, 159 (2d Cir. 2024) ("[W]e conclude that the Fifth Amendment's guarantee of due process precludes a noncitizen's unreasonably prolonged detention under section 1226(c) without a bond hearing."); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020); *Reid v. Donelan*, 17 F.4th 1 at *8 (1st Cir. 2021).

B. Petitioner Y.M.'s Twenty-Six Months in Civil Detention Detention is Prolonged and Violates His Right to Procedural Due Process as His Detention Has Far Exceeded Six Months

36. Petitioner is now in his third year of civil detention without a bond hearing, a length of detention that is unconstitutional and violates his right to due process. While the Supreme Court has declined to adopt a bright-line rule for when prolonged immigration detention without bond violates the Constitution, *Demore* only upheld "brief" detentions under Section 1226(c), which last "roughly a month and a half in the vast majority of cases in which it is invoked, and about five months in the minority of cases in which the [noncitizen] chooses to appeal." *See Demore*, 538 U.S. at 529-30. Here, Y.M.'s detention has far exceeded the "brief" period of detention permitted by *Demore*.

37. Y.M.'s twenty-six (26) months of confinement furthermore exceeds the six-month benchmark period set forth in other immigration detention contexts. *Zadvydas*, 533 U.S. at 701 ("Congress previously doubted the constitutionality of detention for more than six months"); *Diouf v. Napolitano*,

634 F.3d 1081, 1092 (9th Cir. 2011) (*Diouf II*) ("As a general matter, detention is prolonged when it has lasted six months and is expected to continue more than minimally beyond six months.").

38. The recognition that six months is a substantial period of confinement—and is the time after which additional process is required to support continued incarceration—is deeply rooted in our legal tradition. With few exceptions, "in the late 18th century in America crimes triable without a jury were for the most part punishable by no more than a six-month prison term . . . ." *Duncan v. State of La.*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this tradition, the Supreme Court has found six months to be the limit of confinement for a criminal offense that a federal court may impose without the protection afforded by jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a benchmark in other contexts involving civil detention. *See McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249, 250-52 (1972) (recognizing six months as an outer limit for confinement without individualized inquiry for civil commitment).

39. In the absence of a bright-line six-month rule, Ninth Circuit has "grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the arbitrary deprivation of liberty would have thought so." *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018). In the present case, it is clear that Petitioner's detention of over 26 months without an individualized review before a neutral arbitrator is arbitrarily prolonged and thus unconstitutional.

C. Petitioner's Detention Is Unreasonably Prolonged Under the *Mathews* Balancing Test

40. Since *Jennings v. Rodriguez*, 138 S.Ct. 830, 837 (2018), many courts have evaluated as-applied constitutional challenges to prolonged immigration detention using the *Mathews v. Eldridge*, 424 U.S. 319 (1976) test, which balances (1) the private interest threatened by government action; (2) the risk of erroneous deprivation of such interest, and the probable value of additional procedural safeguards; and (3) the government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *see Diep v. Wofford*, No. 1:24-CV-01238-SKO (HC), 2025 WL 604744 (E.D. Cal. Feb. 25, 2025) (applying the *Mathews* test and ordering a bond hearing for an individual detained for 13 months under § 1226(c)); *Eliazar G.C. v. Wofford*, No. 1:24-CV-01032-EPG-HC, 2025 WL 711190 (E.D. Cal. Mar. 5, 2025) (applying *Mathews* test where the individual had been detained under § 1226(c) for over two years

without a bond hearing); *Hilario M.R. v. Warden, Mesa Verde Det. Ctr.*, No. 1:24-CV-00998-EPG-HC, 2025 WL 1158841 (E.D. Cal. Apr. 21, 2025) (applying *Mathews* test and ordering a bond hearing); *Doe v. Andrews, Facility Adm'r of Golden State Annex, et al.*, No. 1:25-CV-00680-KES-SKO (HC), 2025 WL 2390725 (E.D. Cal. Aug. 18, 2025) (applying *Mathews* test where the individual had been detained under § 1226(c) for over two years and recommending a bond hearing); *see also Sho v. Current or Acting Field Off. Dir.*, No. 1:21-CV-01812 TLN AC, 2023 WL 4014649, at *3 (E.D. Cal. June 15, 2023), *report and recommendation adopted*, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21, 2023) (applying Mathews factors to a habeas petitioner's due process claims and collecting cases doing the same).

41. Here, where Petitioner has never received *any* individualized evaluation of his detention, the *Mathews* factors clearly weigh in Petitioner's favor.

42. For the first prong of the *Mathews* test, the Court must consider the private interest threatened by the governmental action. 424 U.S. 319, 335 (1976). Y.M. meets this prong: he suffers constitutional injury every day he remains detained without the necessary procedural protection of a bond hearing. He has already endured over 26 months of civil detention. His extensive ties to the U.S. heighten his private interest in being at liberty with his family and community. *See Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (in applying the first *Mathews* factor, the right "rejoin [one's] immediate family" "ranks high among the interests of" a detained individual with longstanding ties to the U.S.). His private interest in liberty is therefore profound. *See Diouf v. Napolitano*, 634 F.3d 1081, 1091-92 (9th Cir. 2011) (*Diouf II*) ("When detention crosses the six-month threshold and release or removal is not imminent, the private interests at stake are profound."); *Zadvydas*, 533 U.S. at 701 ("Congress previously doubted the constitutionality of detention for more than six months.").

43. The second prong of the *Mathews* test, the risk of erroneous deprivation of such interest through the procedures used, and the probable value of additional procedural safeguards, also weighs heavily in Petitioner's favor. 424 U.S. at 335. "[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is substantial." *Diouf II*, 634 F.3d at 1092. Conversely, "the probable value of additional procedural safeguards, i.e., a bond hearing, is high, because Respondents have provided virtually no procedural safeguards." *Diep*, 2025 WL 604744, at *5

(granting habeas petition for person who had been detained for over one year without a bond hearing); *see also Eliazar G.C. v. Wofford*, No. 1:24-CV-01032-EPG-HC, 2025 WL 711190, at *7 (E.D. Cal. Mar. 5, 2025) ("As additional procedures are not mandated under § 1226(c), the risk of erroneous deprivation as Petitioner's time in detention lengthens is not insignificant."); *Hogarth v. Giles*, No. 5:22-cv-01809-DSF-MAR, Dkt. No. 20 (C.D. Cal. Jan. 11, 2023), *report and recommendation adopted*, Dkt. No. 24 (C.D. Cal. Feb. 23, 2023) ("[T]he analysis for the [this] *Mathews* factor here differs greatly from that of the Ninth Circuit in *Rodriguez Diaz*, primarily due to the fact that Section 1226(c) provides no opportunity for any further bond determinations for the duration of Petitioner's detention. . . It cannot be that due process authorizes infinite detention without any opportunity for reconsideration.").

44. In this case, Petitioner has been deprived of his liberty in civil detention for over twenty-six months without any process whatsoever. Because he is subject to mandatory detention under Section 1226(c) and does not have a statutory right to a bond hearing, he has not been afforded any procedural protections. Y.M. continues to be subject to prolonged mandatory detention through the course of his Ninth Circuit appeal, where it is expected to take up to two years before a decision is issued, and if he prevails, it may be many more months, if not years, for his case to resolve upon remand.[2] Without having had the opportunity to be heard by a neutral decisionmaker, and without a determinate end point for his detention, Petitioner is subject to a high risk of erroneous deprivation of his liberty interest. Therefore, the probable value of providing Y.M. with basic procedural safeguards through a bond hearing is high.

45. The third *Mathews* factor also supports Petitioner: the government interest is weak here because the interest at stake "is the ability to detain Petitioner *without providing him a bond hearing*, not whether the government may continue to detain him" at all. *Lopez-Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. Jan. 29, 2019) (emphasis in original). As the government has conceded in similar

[2] Although the Ninth Circuit does not have a time limit for issuing decisions, the Court estimates up to a year for civil appeals to be scheduled for oral argument, and up to another year for a decision to be issued following submission. Office of the Clerk, U.S. Court of Appeals for the Ninth Circuit, *Frequently Asked Questions (updated December 2023), available at* https://cdn.ca9.uscourts.gov/datastore/general/2016/12/01/FAQ_General.pdf (last visited Aug. 21, 2025).

cases, the cost of providing such a bond hearing is minimal. *Id.; Singh v. Barr*, Case No. 18-cv-2471-GPC-MSB, 2019 WL 4168901, at *12 ("The government has not offered any indication that a second bond hearing would have outside effects on its coffers."). In any event, it is "always in the public interest to prevent the violation of a party's constitutional rights." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Sammartano v. First Judicial Dist. Court*, 303 F.3d 959, 974 (9th Cir. 2002)). *Cf. Doe v. Kelly*, 878 F.3d 710, 718 (9th Cir. 2017) (the government "suffers no harm from an injunction that merely ends unconstitutional practices and/or ensures that constitutional standards are implemented.").

46. Applying these standards, courts in this District and Circuit have repeatedly held that continued arbitrary detention violates due process for individuals who were held under the same detention statute and who were held for shorter periods without review than Petitioner here. *See Diep*, 2025 WL 604744, at *5 (applying the *Mathews* test and ordering a bond hearing for an individual detained for 13 months under § 1226(c)); *Eliazar G.C*, 2025 WL 711190, at *8 (applying *Mathews* test where the individual had been detained under § 1226(c) for over two years without a bond hearing); *Hilario M.R.*, 2025 WL 1158841, at *10 (applying *Mathews* test and ordering a bond hearing); *A.E.*, 2025 WL 1424382 , at *5 (applying *Mathews* and ordering a bond hearing following 20 months of detention); *Abdul-Samed v. Warden, et al.*, No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343 (E.D. Cal. July 25, 2025) (finding 16 months to be unreasonably prolonged and ordering a bond hearing); *Sho v. Current or Acting Field Off. Dir.*, No. 1:21-CV-01812 TLN AC, 2023 WL 4014649, at *3 (E.D. Cal. June 15, 2023), *report and recommendation adopted*, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21, 2023) (applying *Mathews* factors to a habeas petitioner's due process claims and collecting cases doing the same). *See also Doe v. Becerra*, 697 F. Supp. 3d 937 (N.D. Cal. 2023), *appeal dismissed*, No. 24-332, 2025 WL 252476 (9th Cir. Jan. 15, 2025) (applying *Mathews* and ordering bond hearing for an individual detained over 22 months); *Doe v. Becerra*, 704 F. Supp. 3d 1006 (N.D. Cal. 2023), *abrogated on other grounds by Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024) (applying *Mathews* and ordering bond hearing for individual detained over two years under § 1226(c)); *De La Rosa v. Murray*, No. 23-CV-06461-VC, 2024 WL 2646470 (N.D. Cal. Apr. 8, 2024) (ordering bond hearing for an individual detained for 24 months under § 1226(c)). This Court should so hold as well.

D. Standards for Bond Hearing Must Comply with Due Process

47. Petitioner requests a prolonged detention bond hearing before a neutral adjudicator in which the government bears the burden of proving his flight risk or danger by a clear and convincing evidence standard. *See Singh v. Holder*, 638 F.3d 1196,1204 (9th Cir. 2011) ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake...are both particularly important and more substantial than mere loss of money.") (internal quotation marks omitted); *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024) ("the BIA properly noted that the government bore the burden"); *Sho*, 2023 WL 4014649, at *5 (applying *Singh* to hold that the burden is on the government at a prolonged detention bond hearing); *Hilario M.R.*, 2025 WL 1158841, at *10-11 (same); *Eliazar G.C.*, 2025 WL 711190, at *9-10 (same); *Diep*, 2025 WL 604744, at *5 (same); *A.E.*, 2025 WL 1424382 , at *5 (same); *Abdul-Samed*, 2025 WL 2099343, at *9 (same); *Hernandez Gomez*, 2023 WL 2802230 at *4 (collecting cases); *Ixchop Perez v. McAleenan*, 435 F. Supp. 3d 1055, 1062 (N.D. Cal. 2020) (noting the "consensus view" among District Courts concluding that after *Jennings* "where ... the government seeks to detain an alien pending removal proceedings, it bears the burden of proving that such detention is justified); *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906 (N.D. Cal. Jan. 25, 2019) at *6 (collecting cases applying Singh burden of proof for prolonged detention hearings post-*Jennings*); *Singh v. Barr*, 400 F. Supp. 3d 1005 (S.D. Cal. 2019) (finding due process requires the government to bear the burden in immigration bond proceedings).

48. Due process also requires consideration of alternatives to detention. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). Alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

49. Finally, due process requires consideration of a noncitizen's ability to pay a monetary bond. "Detention of an indigent 'for inability to post money bail' is impermissible if the individual's 'appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Hernandez v. Sessions*, 872 F.3d 976 at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (*en banc*)). It follows that—in determining the appropriate conditions of release for immigration detainees—due process requires "consideration of financial circumstances and alternative conditions of release" to prevent against detention based on poverty. *Id.*

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION (Procedural Due Process)

50. Petitioner re-alleges and incorporates by reference the paragraphs above.

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

52. To justify Petitioner's ongoing prolonged detention, due process requires that the government establish, at an individualized hearing before a neutral decisionmaker, that Petitioner's detention is justified by clear and convincing evidence of flight risk or danger, even after consideration whether alternatives to detention could sufficiently mitigate that risk. *See Singh*, 638 F.3d at 1204 ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake...are both particularly important and more substantial than mere loss of money.") (internal quotation marks omitted); *see also Ixchop Perez*, 435 F. Supp. 3d at 1062 (noting the "consensus view" among District Courts concluding that after Jennings "where ... the government seeks to detain a [noncitizen] pending removal proceedings, it bears the burden of proving that such detention is justified"); *Gonzalez*, 2019 WL 330906, at *6 (collecting cases applying Singh burden of proof for prolonged detention hearings post-*Jennings*).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

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

Date: August 22, 2025

Respectfully submitted,

/s/ Sophia Wang

Sophia Wang
Attorney for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. As the Petitioner's attorney, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: August 22, 2025

/s/ Sophia Wang
Sophia Wang
Attorney for Petitioner