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9  
10 **UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

11 Jose Natividad FLORES JIMENEZ,

12 

Petitioner,

13  
14 vs.

15 Christopher CHESTNUT, Warden of  
California City Detention Facility; POLLY  
16 KAISER, San Francisco Field  
Office; TODD M. LYONS, Acting Director  
17 of U.S. Immigration and Customs  
Enforcement; KRISTI NOEM, Secretary of  
18 the U.S. Department of Homeland Security;  
19 PAMELA J. BONDI, Attorney General of  
20 the United States,

21 Respondents.

Case No. 1:25-cv-01104-KES-HBK

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

**IMMIGRATION HABEAS CASE**

Hon. Judge Helena M. Barch-Kuchta

1 Petitioner Jose Natividad Flores Jimenez respectfully petitions this Honorable Court for a  
2 writ of habeas corpus to remedy his unlawful detention by Respondents, as follows:

3 **INTRODUCTION**

4 1. Mr. Flores Jimenez is currently detained by Immigration and Customs Enforcement  
5 (“ICE”) at California City Detention Facility (“California City”) pending adjudication of his  
6 Ninth Circuit Petition for Review (“PFR”).

7 2. Mr. Flores Jimenez has been detained in immigration custody since November 17,  
8 2022, totaling over 33 months in immigration detention. Previously, Mr. Flores Jimenez was  
9 detained at the Golden State Annex (“GSA”) detention facility from November 17, 2022, to  
10 September 6, 2025. On September 6, 2025, Mr. Flores Jimenez was transferred to California  
11 City detention center. No neutral decisionmaker—whether a federal judge or immigration judge  
12 (“IJ”)—has conducted a hearing to determine whether this lengthy incarceration is warranted  
13 based on danger or flight risk since June 13, 2023, over 27 months ago. Since that time, Mr.  
14 Flores Jimenez has shown staunch dedication to his sobriety and continued care of his mental  
15 illnesses.

16 3. Mr. Flores Jimenez’s prolonged detention violates the Due Process Clause of the Fifth  
17 Amendment. His detention for 33 months in conditions equal to or worse than criminal custody  
18 violates his substantive due process rights, and he respectfully requests that this Court issue a  
19 writ of habeas corpus ordering his immediate release.

20 4. If this Courts finds no violation of Mr. Flores Jimenez’s substantive due process rights,  
21 Mr. Flores Jimenez’s continued detention without an individualized determination of whether he  
22 presents a risk of flight or danger still violates his procedural due process rights under the Fifth  
23 Amendment. He therefore requests that this Court hold an evidentiary hearing where the  
24 government must establish by clear and convincing evidence that he currently presents such a  
25 risk, even after consideration of alternatives to detention that could mitigate this risk. If the  
26 government cannot meet its burden, this Court should order Mr. Flores Jimenez’s release on  
27 bail, under appropriate conditions of supervision, and taking into consideration his ability to pay  
28 the bail amount.

1 5. Mr. Flores Jimenez alternatively requests that this Court order his release within 30 days  
2 unless Respondents schedule a bond hearing before an IJ where DHS has the same burden of  
3 proving risk of flight or danger to justify Mr. Flores Jimenez’s continued detention.

4 **JURISDICTION**

5 6. Mr. Flores Jimenez is detained in Respondents’ custody at California City.

6 7. This action arises under the Due Process Clause of the Fifth Amendment of the U.S.  
7 Constitution. Jurisdiction is proper under 28 U.S.C. §§ 1331 (federal question), 2241 (habeas  
8 corpus); U.S. Const. art. I, § 2; (Suspension Clause); and 5 U.S.C. § 702 (Administrative  
9 Procedure Act). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241  
10 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28  
11 U.S.C. § 1651.

12 8. Congress has preserved judicial review of challenges to prolonged immigration detention.  
13 *See Jennings v. Rodriguez*, to 138 S. Ct. 830, 839-841 (2018) (holding that 8 U.S.C. §§ 1226(e)  
14 and 1252(b)(9) do not bar review of challenges to prolonged immigration detention); *see also id.*  
15 at 876 (Breyer, J., dissenting). (“8 U.S.C. § 1252(b)(9) . . . by its terms applies only with respect  
16 to review of an order of removal”) (internal quotation marks and brackets omitted).

17 **VENUE**

18 9. Venue is proper in this District because this is the district in which Petitioner is confined.  
19 *See Doe v. Garland*, 109 F.4th 1188, 1197–99 (9th Cir. 2024). Mr. Flores Jimenez is currently  
20 detained in Kern County, placing his case with the Eastern District court sitting in Fresno,  
21 California in accordance with Local Rule 120(d).

22 **REQUIREMENTS OF 28 U.S.C. § 2243**

23 10. The Court must grant the petition for writ of habeas corpus or issue an order to show  
24 cause (“OSC”) to Respondents “forthwith,” unless Mr. Flores Jimenez is not entitled to relief.  
25 28 U.S.C. § 2243. If the Court issues an OSC, it must require Respondents to file a return  
26 “within *three days* unless for good cause additional time, not exceeding twenty days, is  
27 allowed.” *Id.* (emphasis added).

28 11. Courts have long recognized the significance of the habeas statute in protecting

1 individuals from unlawful detention. The Great Writ affords “*a swift and imperative remedy* in  
2 all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis  
3 added); *see also Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (explaining that habeas  
4 statute requires expeditious determination of petitions).

5 **EXHAUSTION**

6 12. Mr. Flores Jimenez is not required to exhaust administrative remedies. Exhaustion for  
7 habeas claims is prudential, not jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th  
8 Cir. 2004); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Even prudential  
9 exhaustion is not required if “administrative remedies are inadequate or not efficacious, pursuit  
10 of administrative remedies would be a futile gesture, [or] irreparable injury will result.” *Laing*,  
11 370 F.3d at 1000 (internal citation omitted); *see also Hernandez*, 872 F.3d at 988.

12 13. Section 1226(c) prohibits immigration courts from conducting individualized custody  
13 hearings for those who are subject to detention under that provision. *See Jennings*, 138 S. Ct. at  
14 847 (holding that Section 1226(c) mandates detention without a bond hearing until the  
15 conclusion of removal proceedings). Furthermore, requiring Mr. Flores Jimenez to exhaust his  
16 constitutional claims would be futile where these claims do not arise from the Immigration and  
17 Nationality Act (“INA”), and therefore immigration courts and the Board of Immigration  
18 Appeals (“BIA”) do not have the authority to review them. *See Wang v. Reno*, 81 F.3d 808,  
19 815–16 (9th Cir. 1996) (per curiam) (“[T]he inability of the INS to adjudicate the constitutional  
20 claim completely undermines most, if not all, of the purposes underlying exhaustion.”).

21 14. Requiring exhaustion at the immigration court and BIA would also cause Mr. Flores  
22 Jimenez irreparable harm in the form of additional detention and continued separation from his  
23 parents, siblings, nephews, and numerous family members who await Mr. Flores Jimenez’s  
24 return home. *See Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (habeas  
25 petitioner “suffers potentially irreparable harm every day that he remains in custody without a  
26 hearing, which could ultimately result in his release from detention” (internal citation omitted)).  
27 Therefore, exhaustion is not required.

**PARTIES**

1  
2 15. Petitioner is a noncitizen currently detained by Respondents pending ongoing removal  
3 proceedings.

4 16. Respondent Christopher Chestnut is the Warden of Californica City detention facility,  
5 and he is responsible for the physical custody of Petitioner.

6 17. Respondent Polly Kaiser is the acting director of the regional ICE Field Office an agency  
7 of the United States responsible for the administration of the immigration laws. 8 U.S.C. §  
8 1103(a). She is legal custodian of Petitioner. She is named in her official capacity.

9 18. Respondent Kristi Noem is the Secretary of the Department of Homeland Security  
10 (“DHS”). She is responsible for overseeing DHS and its sub-agency, ICE, and has ultimate  
11 responsibility for the detention of noncitizens in civil immigration custody. Respondent Noem  
12 is a legal custodian of Petitioner. She is named in her official capacity.

13 19. Respondent Todd Lyons is the Acting Director for ICE. Respondent Lechleitner is  
14 responsible for ICE’s policies, practices, and procedures, including those relating to the  
15 detention of immigrants. He is named in his official capacity.

16 20. Respondent Pamela J. Bondi is the Attorney General of the United States and the head of  
17 the Department of Justice (“DOJ”), which encompasses the BIA and immigration judges as part  
18 of its sub-agency, the Executive Office for Immigration Review (“EOIR”). Respondent Bondi  
19 has the authority to interpret the immigration laws and adjudicate removal cases and bond  
20 hearings. *See* 8 U.S.C. § 1103(g). She has delegated that power to the nation’s immigration  
21 judges and the BIA. Respondent Bondi is a legal custodian of Petitioner. She is sued in her  
22 official capacity.

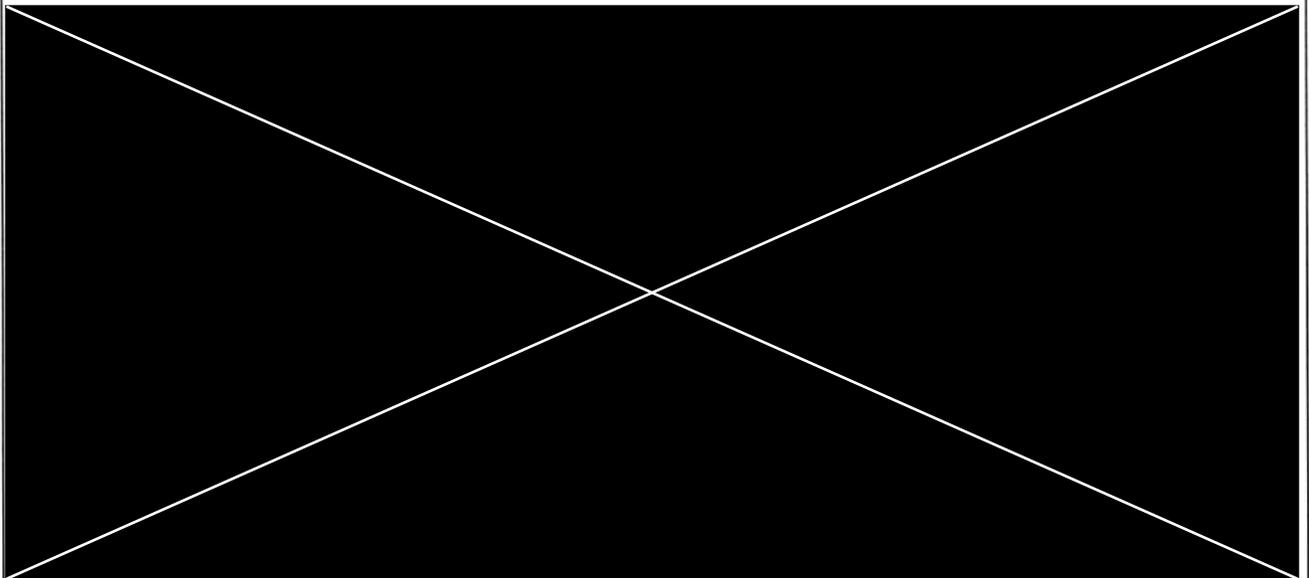
23 **STATEMENT OF FACTS**

24 21. Mr. Flores Jimenez is a thirty-year-old Mexican national who has lived in the United  
25 States since 1999, when he moved here as a lawful permanent resident (“LPR”) with his family  
26 at only four years old. *See* Exh. A (Flores Jimenez Decl.), ¶ 3. His entire extended family lives  
27 in the United States and are themselves LPRs or U.S. citizens. *Id.* Mr. Flores Jimenez has spent  
28 the majority of his life in the United States. *Id.* ¶¶ 3–4. He describes his Spanish as “not very

1 good” and is unable to read or write in the language. *Id.*

2 **I. Mr. Flores Jimenez’s Turbulent Childhood**

3 22. Growing up in Lodi, California, Mr. Flores Jimenez was often left home alone as his  
4 parents struggled to make ends meet. *Id.* ¶¶ 3, 5. From a young age, Mr. Flores Jimenez dealt  
5 with an undiagnosed learning disability and mental illness. *Id.* ¶¶ 3, 6. Not knowing how to ask  
6 for help, Mr. Flores Jimenez turned towards substances to manage his symptoms when he was  
7 only 11 years old. *Id.* ¶ 6. 



17  *See id.* ¶ 11. It was only during Mr. Flores Jimenez’s last incarceration in state  
18 custody that he was finally diagnosed with several mental illnesses and an intellectual disability.  
19 *Id.* ¶ 17. Since his diagnoses, Mr. Flores Jimenez has been medicated for the first time in his life  
20 and feels mentally stronger and clearer than he has in years. *Id.* ¶ 23. Mr. Flores Jimenez has  
21 now been sober for over three years and is dedicated to maintaining his sobriety to serve as a  
22 role model for his young nephews. *Id.* ¶ 24, ¶ 42.

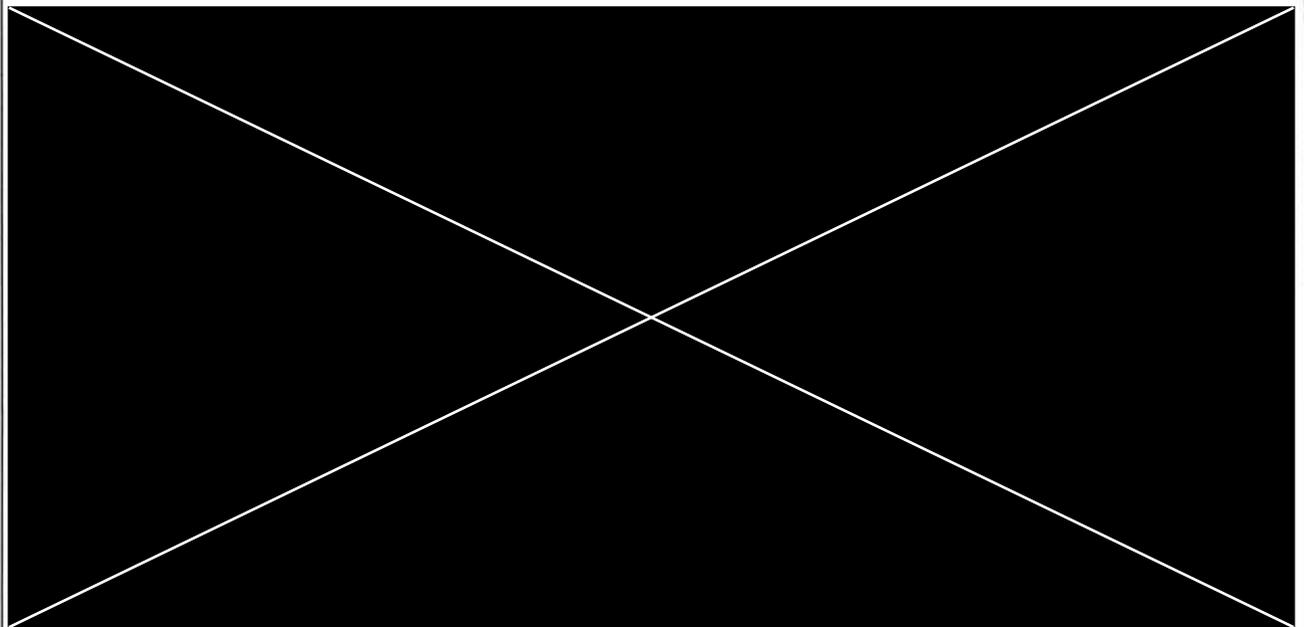
23 **II. Mr. Flores Jimenez’s Convictions**

24 24. Mr. Flores Jimenez’s interactions with law enforcement all occurred prior to his receiving  
25 diagnoses and treatment for his multiple mental illnesses and intellectual disability. He  
26 struggles to remember the details of these interactions and the exact number of times he has  
27 been arrested for or convicted of a crime. *Id.* ¶ 16.

28 25. When he was 20 years old, Mr. Flores Jimenez was in a relationship with an older

1 woman. *Id.* ¶ 12. Both Mr. Flores Jimenez and his partner struggled with substance abuse, and  
2 their relationship deteriorated. *Id.* On November 13, 2017, Mr. Flores Jimenez and his partner  
3 got into a public argument after a night of heavy drinking. *Id.* As they were walking home, a  
4 man Mr. Flores Jimenez did not know attempted to block their path. *Id.* Without thinking, Mr.  
5 Flores Jimenez picked up a rock from the ground and threw it at the stranger. *Id.* While the  
6 rock did not hit the stranger, Mr. Flores Jimenez received 90 days in jail for his actions. *Id.*

7 26. On February 06, 2018, Mr. Flores Jimenez and his partner once again entered into an  
8 argument while intoxicated. *Id.* ¶ 13. The argument escalated, and while Mr. Flores Jimenez  
9 does not recall details of the incident, his partner ended up with a scrape on her right arm. *Id.*  
10 Mr. Flores Jimenez was convicted of inflicting corporal punishment on his partner and violating  
11 a protective order.



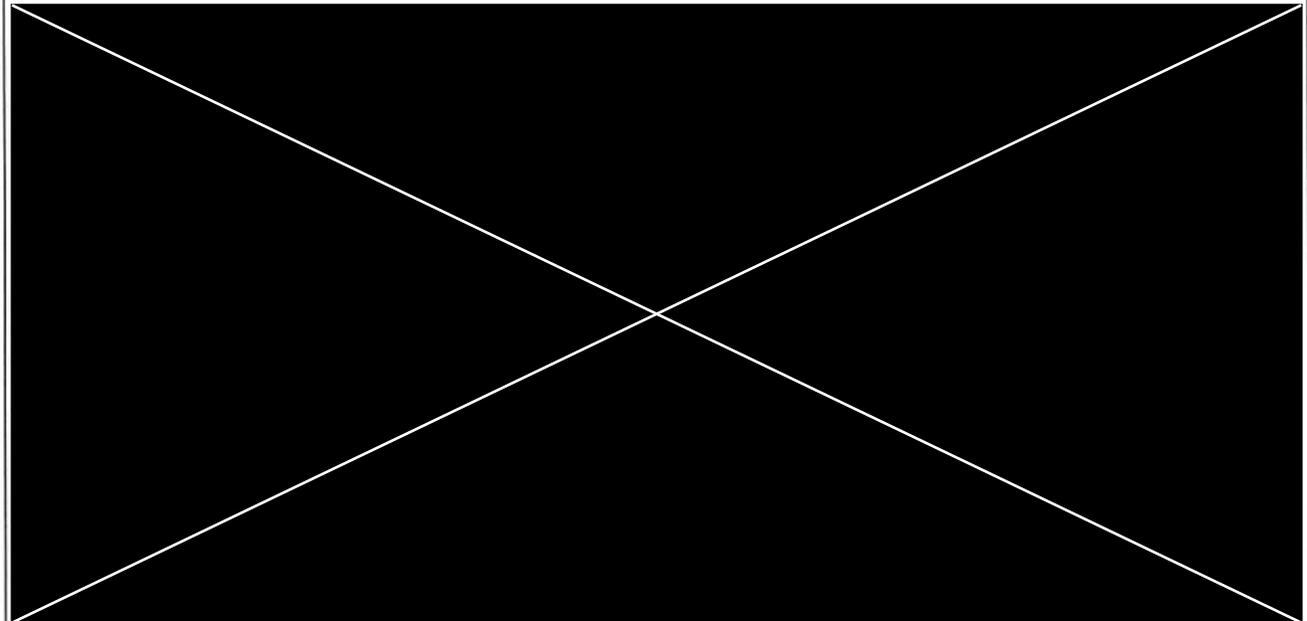
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22 28. Around a year later, as Mr. Flores Jimenez's mental health continued to decline, he was  
23 convicted of a second-degree auto burglary he committed on October 3, 2021. *Id.* ¶ 15. While  
24 living on the streets, Mr. Flores Jimenez noticed what he thought was an abandoned van. *Id.*  
25 One night, he encountered a man named Andrew who told him that the van would be easy to  
26 break into. *Id.* After following Andrew to the car and breaking the van window, Mr. Flores  
27 Jimenez realized his actions were wrong and started to walk away from the car. *Id.* However,  
28 the police had already been called, and Mr. Flores Jimenez was arrested and spent two years in

1 jail for auto burglary. *Id.*

2 29. It was only after this last conviction and while he was in state custody, that Mr. Flores  
3 Jimenez was ultimately diagnosed with a host of mental illnesses and an intellectual disability.  
4 *Id.* ¶ 16. Now that he is on medication for the first time in his life, Mr. Flores Jimenez feels  
5 profound regret and shame over his prior actions. *Id.* This newfound clarity has motivated Mr.  
6 Flores Jimenez to remain committed to his sobriety. *Id.*

7 **III. Mr. Flores Jimenez’s Two Years in Criminal Custody and Mental Health**  
8 **Diagnosis**

9 30. While in criminal custody for his auto burglary conviction, Mr. Flores Jimenez  
10 underwent a series of severe mental health episodes. *Id.* ¶¶ 18–21. 



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21 31. Since being placed on medication, Mr. Flores Jimenez has taken on a new lease on life.  
22 *Id.* ¶ 21. He feels motivated to do everyday tasks, like eat and read, that he previously found  
23 overwhelming. *Id.* In addition to his medication, Mr. Flores Jimenez found new healthy coping  
24 mechanisms, such as working out and staying connected to his family, to help manage  
25 symptoms of his mental illness. *Id.* ¶ 27, ¶ 32.

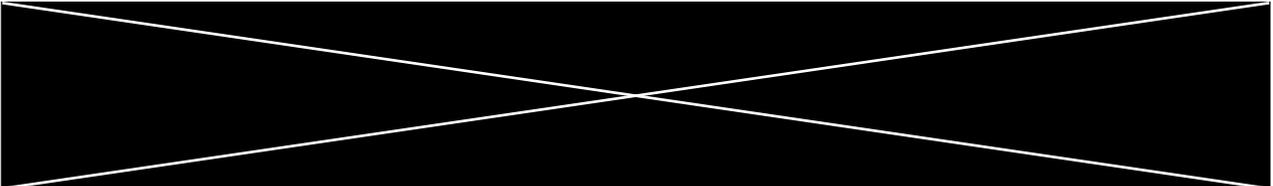
26 **IV. Mr. Flores Jimenez’s 33 Months in ICE Detention**

27 32. After completing his criminal sentence for the auto burglary, which had occurred two  
28 years earlier, Mr. Flores Jimenez was transferred into immigration custody and taken to GSA on

1 November 17, 2022. Exh. B at 1.

2 33. During his 33 months of detention at GSA, Mr. Flores Jimenez experienced subpar  
3 mental health care and deteriorating conditions caused by recent overcrowding. This led to  
4 conditions that are equally or more punitive than what he experienced in criminal custody. *Id.* ¶  
5 ¶ 23–37.

6 34. According to a 2025 report by the California Department of Justice, GSA’s “[m]ental  
7 health and medical staff did not engage in appropriate treatment planning or multidisciplinary  
8 treatment to address detainee needs.”<sup>1</sup> GSA’s lack of appropriate treatment planning included  
9 “inadequate medication management.”<sup>2</sup> Mr. Flores Jimenez experienced the effects of this  
10 mismanagement, as GSA failed to maintain a consistent medication distribution schedule,  
11 resulting in Mr. Flores Jimenez missing about three to five dosages a month. *Id.* ¶ 26. Mr.  
12 Flores Jimenez keenly feels the effects of these missed dosages, reporting that when he does not  
13 take his medication regularly it becomes difficult for him to sleep, and he notices an increase in  
14 his anxiety. *Id.* This mental health care is starkly in contrast to that which he had access to in  
15 criminal custody, where not only would he receive his medication timely, but a social worker  
16 would check in on him regularly. *Id.* ¶ 27, ¶ 32. At GSA, Mr. Flores Jimenez felt belittled by  
17 medical staff in a way he never felt in prison. *Id.* ¶ 37. 

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21 35. In prison, Mr. Flores Jimenez regularly attended church services. However, at GSA  
22 detainees must be escorted to services, and services are not held as often. *Id.* ¶ 32. Mr. Flores  
23 Jimenez also used to attend Alcoholics Anonymous (“AA”) regularly at GSA. *Id.* ¶ 28. Since  
24 January 2025, the detention center had changed programming schedules, and programming  
25 became harder to access due to an increase in new detainees. *Id.* ¶ 28.

26  
27 <sup>1</sup> CAL. DEP’T OF JUSTICE, IMMIGRATION DETENTION IN CALIFORNIA: A COMPREHENSIVE REVIEW WITH A  
28 FOCUS ON MENTAL HEALTH 53, (2025), <https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf>.

<sup>2</sup> *Id.*

1 36. With fewer mental health resources available to him, Mr. Flores Jimenez used physical  
2 exercise as a coping tool to help manage his mental illness. *See id.* ¶ 28. Yard time is crucial to  
3 Mr. Flores Jimenez’s mental health. *Id.* While in prison, Mr. Flores Jimenez had access to  
4 greater amounts of yard time and exercise equipment. *Id.* ¶ 30. However, yard time at GSA  
5 became increasingly restrictive, with workout equipment being removed from the space and  
6 overall yard time being reduced from four hours daily to three. *Id.* ¶ 29.

7 37. Mr. Flores Jimenez had also taken on employment while detained at GSA to create  
8 structure in his daily routine. *Id.* ¶ 31. Mr. Flores Jimenez worked as janitorial staff cleaning  
9 the facility Monday through Friday, for only a dollar a day. *Id.* Mr. Flores Jimenez’s sobriety is  
10 largely motivated by his desire to maintain a positive relationship with his family, with whom he  
11 attempts to have daily phone calls. *Id.* ¶ 33. In prison, Mr. Flores Jimenez had access to free  
12 phone calls, but in GSA he paid for phone calls while overcrowding made phone access scarce.  
13 *Id.* Mr. Flores Jimenez’s anxiety greatly increases when he is unable to have daily contact with  
14 his family. *Id.*

15 38. GSA serves food in small portions, and the food is often undercooked and inedible. *Id.* ¶  
16 34. Due to the increase in detainees at GSA, the staff had become stricter about food  
17 distribution, to the point that Mr. Flores Jimenez was once erroneously denied a meal. *Id.* Mr.  
18 Flores Jimenez was forced to rely on his commissary fund to avoid going hungry. *Id.* The  
19 commissary at GSA was often double the price for items than it was in prison. *Id.*

20 39. The overcrowding has also made GSA increasingly unclean and unhygienic. Mr. Flores  
21 Jimenez attributes his recent urinary tract infection (“UTI”) to worsening conditions and lack of  
22 consistent access to hygiene products. *Id.* ¶ 35. Mr. Flores Jimenez often waited three to four  
23 days to receive basic personal care products like shampoo, toilet paper, or a toothbrush. *Id.*  
24 Laundry access was also being delayed, while undergarments, such as socks, were not being  
25 replaced. *Id.* ¶ 36.

26 40. On September 6, 2025, eight days after he filed his initial habeas petition, Mr. Flores  
27 Jimenez was transferred to California City Detention Facility in California City, California. Exh.  
28 U, (Flores Jimenez Supp. Decl.) at ¶ 1. During the two-hour bus ride to California City, Mr.

1 Flores Jimenez was shackled hand and foot. *Id.* at ¶ 2. California City opened on August 29,  
2 2025.<sup>3</sup> Since its opening, there have been allegations that the facility is operating without a  
3 valid business license.<sup>4</sup> In addition to failing a fire department inspection in July, there are  
4 reports that conditions in California City are unsanitary.<sup>5</sup>

5 41. Upon arrival at California City, Mr. Flores Jimenez also did not have access to his  
6 commissary, causing him to go hungry, as he typically supplements the small portions he  
7 receives in detention with food from the commissary. *Id.* at ¶ 3. For two days, Mr. Flores  
8 Jimenez was not given sheets for his bed, a change of clothes, any of his property, or access to  
9 phone calls. *Id.* at ¶ 8.

10 42. Now that he does have access to the commissary at California City, Mr. Flores Jimenez  
11 has noticed that it is even more expensive than the commissary at GSA, which was already  
12 double the price of the commissary in prison. *Id.* at ¶ 9. Coffee, which was eight dollars at  
13 GSA, is now 16 dollars at California City, and squeeze cheese, which was three dollars at GSA,  
14 is now six. *Id.*

15 43. Mr. Flores Jimenez now lives in a cell with one other person, a “living” arrangement he  
16 has not been in since he was in criminal custody. *Id.* at ¶ 4. There are 80 detainees and

17 <sup>3</sup> Lester Black, *Trump admin spends millions to reopen private California prison*, SFGATE (2025),  
18 <https://www.sfgate.com/centralcalifornia/article/trump-admin-reopen-private-california-prison-21037836.php> (last visited Sep 15, 2025).

19 <sup>4</sup> Peter Segall, *Cal City Detention Center is housing detainees; advocates say it doesn't have permits*,  
20 YAHOO! NEWS (2025), available at [https://www.yahoo.com/news/articles/cal-city-detention-center-housing-010200283.html?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cuc2ZnYXRILmNvbS9jZW50cmFsY2FsaWZvcmlpY2x1L3RydWlwlWfkbWluLXJlb3Blbi1wcm12YXRILWNhYGlmb3JuaWEtcHJpc29uLTIxMDM3ODM2LnBocA&guce\\_referrer\\_sig=AQAAAEF7P8P0nOL5ob-NLb4gWPBQr3vPzZsj24AxPZb0\\_Y1DtjwBLIy-FuKsJRBfdz-lOxhoFVp0uWSWpsHAC0mJL9IZXHrlzNf5ESFtuv50ZBcm1e1IHJsfhNRkr90eoyTmldWqi09b\\_Yjq3e-U5-j0qSCrEpOU3xXQDkX1CAaCWly](https://www.yahoo.com/news/articles/cal-city-detention-center-housing-010200283.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuc2ZnYXRILmNvbS9jZW50cmFsY2FsaWZvcmlpY2x1L3RydWlwlWfkbWluLXJlb3Blbi1wcm12YXRILWNhYGlmb3JuaWEtcHJpc29uLTIxMDM3ODM2LnBocA&guce_referrer_sig=AQAAAEF7P8P0nOL5ob-NLb4gWPBQr3vPzZsj24AxPZb0_Y1DtjwBLIy-FuKsJRBfdz-lOxhoFVp0uWSWpsHAC0mJL9IZXHrlzNf5ESFtuv50ZBcm1e1IHJsfhNRkr90eoyTmldWqi09b_Yjq3e-U5-j0qSCrEpOU3xXQDkX1CAaCWly) (last visited Sep 15, 2025).

24 <sup>5</sup> Tyche Hendricks, *California's newest immigration facility is also its biggest. is it operating legally?*  
25 KQED (2025), <https://www.kqed.org/news/12054544/californias-newest-immigration-facility-is-also-its-biggest-is-it-operating-legally> (last visited Sep 15, 2025); Lester Black, *Trump admin spends millions to reopen private California prison*, SFGATE (2025), <https://www.sfgate.com/centralcalifornia/article/trump-admin-reopen-private-california-prison-21037836.php> (last visited Sep  
26 15, 2025).  
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1 counting in Mr. Flores Jimenez’s unit, and the officers have stated that they are overwhelmed  
2 and understaffed. *See Id.* at ¶ 2, 5. Mr. Flores Jimenez has restricted freedom of movement,  
3 with mandatory lockdown starting at 10:00 p.m. and mandatory wake-up at 5:00 a.m. *Id.* at ¶ 4.  
4 44. At GSA, “count”—where officers go around confirming each detainee is accounted for—  
5 was conducted three times a day and did not necessitate lockdown. *Id.* at ¶ 4. At California  
6 City, count is conducted five times a day, with each round requiring lockdown and taking about  
7 one hour each time. *Id.* This means that Mr. Flores Jimenez is locked in a cell about five hours  
8 each day, a drastic departure from his previous civil incarceration at GSA.

9 45. Mr. Flores Jimenez’s unit was so filthy upon arrival that he and his fellow detainees had  
10 to request cleaning supplies to create a habitable environment. *Id.* at ¶ 5. While Mr. Flores  
11 Jimenez was previously paid for his janitorial work at GSA, he is not receiving pay for any of  
12 the cleaning he does at California City. *Id.*

13 46. Mr. Flores Jimenez also now has limited access to water. *Id.* at ¶ 6. A five-gallon jug of  
14 water is provided for his entire 80 person unit. *Id.* Once the water runs out, Mr. Flores Jimenez  
15 and his unit have to wait hours for a refill. *Id.* Recently, someone in Mr. Flores Jimenez’s unit  
16 opened the water jug to discover it was covered in mold. California City is actively under  
17 construction, adding to the hazardous conditions. *Id.*

18 47. The day of his transfer Mr. Flores Jimenez was not given his medication at all and was  
19 subsequently placed on an entirely new medication schedule. *Id.* at ¶ 11. When Mr. Flores  
20 Jimenez does not receive his medication regularly, he has increased issues sleeping and  
21 experiences heightened anxiety. *Id.* Since he has been at California City, Mr. Flores Jimenez  
22 has not seen a doctor, instead he has had two brief interactions with nurses. *Id.* at ¶¶ 11–13  
23 During his initial five-minute meeting with the nurse, Mr. Flores Jimenez was asked only basic  
24 questions. *Id.* at ¶¶ 11. Because his current environment is so much like prison, Mr. Flores  
25 Jimenez did not feel comfortable disclosing that he may be hearing voices again, fearing that he  
26 would be placed in solitary confinement. *Id.* In his second interaction with a nurse at California  
27 City, Mr. Flores Jimenez had a male nurse examine his genitals after he noticed something was  
28 wrong. *Id.* at 13. Despite requiring a male nurse to examine him, a female officer was posted at

1 the door during this sensitive examination. *Id.* On September 14, 2025, Mr. Flores Jimenez was  
2 denied both his anxiety and seizure medication. *Id.* at ¶¶ 12. He was told that he does not have  
3 any medications in California City’s internal system (despite the fact that he had been receiving  
4 medication starting the day after he was transferred). *Id.* Without his medication, Mr. Flores  
5 Jimenez has been unable to sleep and can feel his anxiety increasing. *Id.*

6 48. Besides his medication, Mr. Flores Jimenez typically manages his anxiety through  
7 exercise and contact with his family. *See Id.* at ¶ 10–14. Since being at California City, Mr.  
8 Flores Jimenez has even less access to these crucial coping mechanisms. *Id.* Mr. Flores  
9 Jimenez describes the yard at California City as a dirt patch without a soccer field or basketball  
10 court. Furthermore, yard time is only an hour a day, significantly less time than the already  
11 limited two hours of yard time Mr. Flores Jimenez received at GSA. *Id.* at ¶ 10. The only  
12 exercise equipment available is rusted beyond use. *Id.*

13 49. Detainees at California City cannot receive incoming phone calls whatsoever, decreasing  
14 Mr. Flores Jimenez’s avenues of communication with his family. *Id.* at ¶ 14. California City is  
15 also an additional two hours away from Mr. Flores Jimenez’s family, making in-person visits  
16 impractical for his elderly parents. *Id.* Even if they could manage the five-hour drive to  
17 California City, in-person visits are limited to 30 minutes in California City and take place  
18 behind glass. *Id.* This is in contrast to GSA, which allowed for up to one hour and 45 minutes  
19 of visitation time and provided a room for family members to visit with loved ones. *Id.*

20 50. California City also has no AA groups, no library, nor any programming of any kind for  
21 detainees. This increase in lockdowns, lack of access to food and water, decrease in yard time  
22 and family communication, and irregular medication schedule have all taken a toll on Mr. Flores  
23 Jimenez’s mental health. *Id.* at ¶ 15.

#### 24 **V. Mr. Flores Jimenez’s Removal Proceedings**

25 51. On November 17, 2022, the Department of Homeland Security (“DHS”) issued Mr.  
26 Flores Jimenez a Notice to Appear (“NTA”), charging him as removable under Section  
27 237(a)(2)(A)(iii) and 237(a)(2) (E)(1) of the INA. *See* Exh. B. On February 7, 2023, Mr. Flores  
28 Jimenez filed a *pro se* application for asylum, withholding of removal, and protection under the

1 convention against torture (“CAT”). Exh. I at 3. On November 29, 2022, an IJ found Mr.  
2 Flores Jimenez subject to mandatory detention under INA 236(c).

3 52. On February 28, 2023, the IJ found Mr. Flores Jimenez incompetent to represent himself  
4 and appointed a Qualified Representative (“QR”) pursuant to *Franco-Gonzalez v. Holder*, No.  
5 CV-10-02211, 2014 WL 5475097 (C.D. Cal. Oct. 29, 2014). See Exh. I at 2. With the  
6 assistance of his QR, Mr. Flores Jimenez filed an updated application for asylum, withholding of  
7 removal, and CAT based on his fear of future torture by Mexican police, Mexican mental health  
8 workers, and criminal actors. *Id.* at 3.

9 53. On June 13, 2023, Mr. Flores Jimenez had a bond hearing pursuant to *Franco-Gonzalez*,  
10 No. CV-10-02211, 2014 WL 5475097. During this bond hearing, the IJ found that Mr. Flores  
11 Jimenez was a danger to the community because she found him likely to relapse into substance  
12 abuse. See Exh. F. The IJ did not address whether Mr. Flores Jimenez was a flight risk. *Id.*

13 54. Between late 2022 to 2023, over four separate merits hearings, the IJ heard testimony  
14 from Mr. Flores Jimenez; his sister Nora; Dr. Rodriguez, an expert in clinical psychology; and  
15 Dr. Duncan, a qualified expert in “Mexico’s mental health system and how mentally ill people  
16 are treated within that system,” who opined it was “extremely likely” Mr. Flores Jimenez would  
17 end up in a psychiatric facility or detention center where he will be tortured if removed. Exh. I  
18 at 8–16.

19 55. On November 13, 2023, the IJ denied Mr. Flores Jimenez all forms of relief. See  
20 generally Exh. G. Mr. Flores Jimenez timely appealed the decision, and on April 25, 2024, the  
21 BIA remanded with instructions for the IJ to conduct a new analysis of Mr. Flores Jimenez’s  
22 eligibility for asylum and withholding and to consider each of his mental health conditions and  
23 their impact on his likelihood of future persecution and torture. Exh. H.

24 56. On September 9, 2024, almost a year after her first decision, the IJ again denied all of Mr.  
25 Flores Jimenez’s claims. See Exh. I. She again found Mr. Flores Jimenez ineligible for asylum  
26 and withholding and denied CAT relief by finding it not more likely than not that Mr. Flores  
27 Jimenez would relapse into substance abuse and encounter the state and private actors he fears.  
28 *Id.* Mr. Flores Jimenez timely appealed to the BIA. See Exh. J. On February 28, 2025, a

1 single-member panel for the BIA upheld the IJ’s second denial, concluding that the IJ “did not  
2 commit legal or clear factual error in determining that the respondent failed to show that he will  
3 more likely than not be tortured by or with the acquiescence of a public official of the Mexican  
4 government.” *Id.* at 5.

5 57. Mr. Flores Jimenez appealed to the Ninth Circuit for a PFR on March 3, 2025. *See* Exh.  
6 K. On June 16, 2025, the Ninth Circuit granted Mr. Flores Jimenez’s motion to stay removal  
7 while his appeal is pending. *Id.* His appeal currently remains pending at the Ninth Circuit, with  
8 DHS’s responsive brief due September 19, 2025, and Mr. Flores Jimenez’s reply brief due  
9 October 10, 2025. *Id.* Once his PFR briefing is complete, the Ninth Circuit will set a date for  
10 oral argument in the case and thereafter issue a decision. Mr. Flores Jimenez’s PFR may remain  
11 pending for multiple months, if not longer, during which he will remain detained. A remand  
12 from the Ninth Circuit would further prolong Mr. Flores Jimenez’s detention as his case is  
13 adjudicated again.

14 **VI. Mr. Flores Jimenez’s Release Plan**

15 58. Mr. Flores Jimenez has a comprehensive release plan to ensure that he continues his  
16 sobriety and mental health care in a controlled environment. *See* Exh. T.

17 59. While detained, Mr. Flores Jimenez has remained sober from all alcohol and drugs for  
18 almost three years. *See* Exhs. A, T. Mr. Flores Jimenez has taken his time in detention to reflect  
19 on his past and now has a clear path to becoming the person he would like to be – a hard worker  
20 and family man. Flores Jimenez Decl., ¶ 38. Equipped with his mental health diagnosis and  
21 medication, Mr. Flores Jimenez has learned how to care for his depression and anxiety without  
22 turning towards substance abuse. *See id.* ¶ 39.

23 60. If released from California City, Mr. Flores Jimenez plans to live with his parents in  
24 Lodi, California. *Id.* ¶ 41. Mr. Flores Jimenez’s parents are dedicated to helping him maintain  
25 sobriety in a highly structured environment and have already identified a nearby outpatient  
26 rehabilitation program for Mr. Flores Jimenez to enroll in once he is released. *See* Exh. M. Mr.  
27 Flores Jimenez also has the unwavering support of his siblings, who will aid with transportation  
28 to and from any medical appointments, and help him find employment in construction. *See*

1 Exhs. N, O, Q. Mr. Flores Jimenez also has the support of his religious community, who await  
2 him with open arms. *See* Exhs. P, R.

3 61. Mr. Flores Jimenez has been screened by San Joaquin County Behavioral Health Services  
4 (“SJCBS”), which offers comprehensive substance use and mental health services. *See* Exh.  
5 R. Once released, he will meet with a counselor who will conduct a thorough and individualized  
6 assessment of Mr. Flores Jimenez’s needs and help enroll him in a structured treatment plan for  
7 both his substance abuse and mental health. *See* Exh. T. In addition to joining a rehabilitation  
8 program, Mr. Flores Jimenez will receive continued support through ImmDef’s case  
9 management program, which has already identified local AA meetings and work reintegration  
10 programs from which he can benefit. *Id.*

11 62. ICE has now civilly detained Mr. Flores Jimenez for more than 1,014 days and will  
12 continue to detain him for at least months longer absent federal court intervention.

### 13 LEGAL FRAMEWORK

14 63. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of  
15 law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v.*  
16 *Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody,  
17 detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due  
18 Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718  
19 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against  
20 unlawful or arbitrary personal restraint or detention.”). This fundamental due process protection  
21 applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721  
22 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be  
23 free from detention that is arbitrary or capricious”).

24 64. Due process requires “adequate procedural protections” to ensure that the government’s  
25 asserted justification for physical confinement “outweighs the individual’s constitutionally  
26 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation  
27 marks omitted). In the immigration context, the Supreme Court has recognized only two valid  
28 purposes for civil detention—to mitigate the risks of danger to the community and to prevent

1 flight. *Id.*; *Demore*, 538 U.S. at 528. The Supreme Court has found that civil immigration  
2 detention is limited by both substantive and procedural due process protections. “In our society  
3 liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”  
4 *United States v. Salerno*, 481 U.S. 739, 755 (1987).

5 65. Due process therefore requires that the government provide bond hearings to noncitizens  
6 facing prolonged detention. “The Due Process Clause foresees eligibility for bail as part of due  
7 process” because “[b]ail is basic to our system of law.” *Jennings*, 138 S. Ct. at 862 (Breyer, J.,  
8 dissenting) (internal quotation marks omitted). While the Supreme Court upheld the mandatory  
9 detention of a noncitizen under Section 1226(c) in *Demore*, it did so based on the petitioner’s  
10 concession of deportability and the Court’s understanding at the time that such detentions are  
11 typically “brief.” *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a  
12 prolonged period or is pursuing a substantial defense to removal or claim to relief, due process  
13 requires an individualized determination that such a significant deprivation of liberty is  
14 warranted. *Id.* at 532 (Kennedy, J., concurring) (“[I]ndividualized determination as to his risk of  
15 flight and dangerousness” may be warranted “if the continued detention became unreasonable or  
16 unjustified”); *see also Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (holding that detention  
17 beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*,  
18 407 U.S. 245, 249-50 (1972) (holding that “lesser safeguards may be appropriate” for “short  
19 term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685–86 (1978) (holding that, in the Eighth  
20 Amendment context, “the length of confinement cannot be ignored in deciding whether [a]  
21 confinement meets constitutional standards”); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021)  
22 (holding that “the Due Process Clause imposes some form of reasonableness limitation upon the  
23 duration of detention” under section 1226(c)) (internal quotation marks omitted).

24 **A. Immigration Detention Violates Substantive Due Process If It Is Excessive or**  
25 **Unnecessary in Relation to Its Purpose and Thus Punitive.**

26 66. Substantive “due process requires that the nature and duration of [civil incarceration] bear  
27 some reasonable relation to the purpose for which the individual is committed,” otherwise, it  
28 amounts to punishment. *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (quoting *Jackson*,

1 406 U.S. at 738). Even when the Constitution permits some confinement, the Supreme Court  
2 has recognized that such confinement becomes punitive when it is “excessively prolonged.”  
3 *Salerno*, 481 U.S. at 747 n.4. Applying these principles, the Ninth Circuit has held that civil  
4 restrictions on liberty violate due process: (1) “where [they] are expressly intended to punish,”  
5 or (2) “where the challenged restrictions serve an alternative, non-punitive purpose but are  
6 nonetheless ‘excessive in relation to the alternative purpose,’ or ‘are employed to achieve  
7 objectives that could be accomplished in so many alternative and less harsh methods.’” *Jones*,  
8 393 F.3d at 932 (internal citations omitted). Civil detention is also presumptively punitive if the  
9 individual is held in conditions that are similar to, or more restrictive than, conditions in  
10 criminal custody. *See id.* at 934; *King v. Cty. of Los Angeles*, 885 F.3d 548, 556-57 (9th Cir.  
11 2018). Accordingly, when a person who is subjected to prolonged civil immigration detention  
12 poses no risk of flight or danger to the community, or when restrictions short of physical  
13 custody are sufficient to mitigate any risk such person poses, the Constitution requires release  
14 from physical custody.

15 **B. Even When It Is Not Punitive, Prolonged Detention Without an**  
16 **Individualized Hearing Violates Procedural Due Process.**

17 67. When considering due process challenges, courts should first consider whether the  
18 government’s deprivation of liberty violates substantive due process. Only if the deprivation in  
19 that inquiry does not violate substantive due process does the court turn to the procedural due  
20 process claim. *See Zinermon v. Burch*, 494 U.S. 113, 126 (1990) (substantive due process  
21 challenges the deprivation itself, whereas procedural due process challenges only the process  
22 that accompanied it); *Huynh v. Reno*, 56 F. Supp. 2d 1160, 1162 n.3 (W.D. Wash. 1999)  
23 (“[O]nly when a restriction on liberty survives substantive due process scrutiny does the further  
24 question of whether the restriction is implemented in a procedurally fair manner become ripe for  
25 consideration.”) (citing *Salerno*, 481 U.S. at 746)).

26 68. If a noncitizen’s detention complies with substantive due process, prolonged immigration  
27 detention can still violate procedural due process absent an individualized inquiry of whether the  
28 government’s asserted justification for confinement “outweighs the ‘individual’s constitutionally

1 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citations omitted);  
2 *see also Sajous v. Decker*, No. 18-CV-2447 (AJN), 2018 WL 2357266, at \*8 (S.D.N.Y. May 23,  
3 2018) (“The Court’s first conclusion is essentially conceded by the Government: that prolonged  
4 detention under § 1226(c) without providing an alien with a bond hearing will—at some point—  
5 violate the right to due process.”); *Abdul-Samed v. Warden of Golden State Annex Det. Facility*,  
6 No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343, at \*6 (E.D. Cal. July 25, 2025) (“[T]he Court  
7 finds that unreasonably prolonged mandatory immigration detention without an individualized  
8 bond hearing violates due process.”).

9 69. The Supreme Court and the Ninth Circuit have indicated that immigration detention  
10 exceeding six months is prolonged, and therefore presumptively unconstitutional without an  
11 individualized hearing. *See Zadvydas*, 533 U.S. at 701; *Diouf v. Napolitano (Diouf II)*, 634  
12 F.3d 1081,1091–92 (9th Cir. 2011) (holding that immigration “detention becomes prolonged”  
13 after six months), *abrogated on other grounds as stated in Rodriguez Diaz v. Garland*, 53 F.4th  
14 1189 (9th Cir. 2022).

15 70. Courts that have declined to apply the six-month bright-line rule have instead applied  
16 various multi-factor reasonableness tests to evaluate as-applied challenges to prolonged detention  
17 under Section 1226(c). *See German Santos v. Warden Pike Correctional Facility*, 965 F.3d 203,  
18 211 (3d Cir. 2020); *see also Abdul-Samed*, No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343, at  
19 \*6 (collecting examples of the different multi-factor tests applied in this circuit). In *Lopez v.*  
20 *Garland*, 631 F. Supp. 3d 870 (E.D. Cal. 2022), the court evaluated whether the petitioner’s  
21 prolonged detention under 1226(c), without any individualized bond hearing, violated the  
22 petitioner’s procedural due process rights based on three factors: 1) total length of detention to  
23 date; 2) likely duration of future detention; and 3) reasons for delays in the immigration  
24 proceedings.

25 71. There are also some courts in this district that apply the long-standing *Mathews v.*  
26 *Eldridge*, 424 U.S. 319, 335 (1976), balancing test when evaluating as-applied procedural due  
27 process challenges to Section 1226(c) detention. *See e.g., Carballo v. Andrews*, No. 1:25-CV-  
28 00978-KES-EPG (HC), 2025 WL 2381464, at \*7 (E.D. Cal. Aug. 15, 2025) (applying *Mathews*

1 because “[d]ue process ‘is a flexible concept that varies with the particular situation.’” (quoting  
 2 *Zinermon*, 494 U.S. at 127); *Eliazar G.C. v. Wofford*, No. 1:24-CV-01032-EPG-HC, 2025 WL  
 3 711190, at \*5 (E.D. Cal. Mar. 5, 2025) (“[T]he Ninth Circuit has ‘regularly applied *Mathews* to  
 4 due process challenges to removal proceedings,’ and finding ‘*Mathews* remains a flexible test  
 5 that can and must account for the heightened governmental interest in the immigration detention  
 6 context.’”) (quoting *Rodriguez Diaz*, 53 F.4th at 1193, 1206). The Supreme Court has likewise  
 7 indicated that *Mathews* is the constitutional test for “evaluating the procedures in any case.”  
 8 *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (remanding procedural due process challenge to  
 9 administrative immigration procedures with instruction to apply *Mathews*).<sup>6</sup>

### ARGUMENT

#### **I. Petitioner’s Continued Detention Violates the Substantive Due Process Clause Because It Is Excessive in Relation to the Government’s Interests and Is Therefore Punitive.**

14 72. Substantive due process prohibits detention that is punitive in purpose or in effect,  
 15 including detention that is unreasonably prolonged. *See Jackson*, 406 U.S. at 738; *Salerno*, 481  
 16 U.S. at 747, n.4. Civil immigration detention is constitutionally permissible only to the extent  
 17 that it is reasonably related to the purpose of preventing danger to the community or flight risk.  
 18 *See Demore*, 538 U.S. at 515; *see also Zadvydas*, 533 U.S. at 690.

19 73. Even civil detention that begins as constitutionally acceptable may become  
 20 unconstitutionally punitive when it exceeds a particular duration. “[A]s the period of . . .  
 21 confinement grows,” greater justification is needed “for detention to remain reasonable.”

22 <sup>6</sup> The Supreme Court’s decision in *Jennings v. Rodriguez* did not alter this constitutional  
 23 analysis. While *Jennings* rejected the application of the constitutional avoidance canon to  
 24 Sections 1226(c) and 1225(b), the Court found that “the Court of Appeals . . . had no occasion to  
 25 consider [the] constitutional arguments on their merits,” and remanded the case for further  
 26 development. 138 S. Ct. at 851. The Ninth Circuit, in turn, remanded *Jennings* to the district  
 27 court, registering its “grave doubts that any statute that allows for arbitrary prolonged detention  
 28 without any process is constitutional . . .” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir.  
 2018); *see also German Santos*, 965 F.3d at 210 (“[E]ven though the [*Jennings*] Court  
 foreclosed reading the statutory text [of the detention statutes] as guaranteeing periodic bond  
 hearings, it reserved the [noncitizens’] constitutional claims for remand. . . . We are thus bound  
 by [our precedents] that § 1226(c) is unconstitutional when applied to a detain a[] [noncitizen]  
 unreasonably long without a bond hearing.”).

1 *Zadvydas*, 533 U.S. at 701; *see also id.* at 690 (“A statute permitting indefinite detention of [a  
2 noncitizen] would raise a serious constitutional problem”); *Salerno*, 481 U.S. at 747, n.4  
3 (recognizing there may be “[a]point at which detention in a particular case might become  
4 excessively prolonged, and therefore punitive, in relation to Congress’ regulatory goal”);  
5 *Jackson*, 406 U.S. at 733 (expressing “substantial doubt” that statutes authorizing pretrial  
6 detention of incompetent criminal defendants “could survive constitutional scrutiny if  
7 interpreted to authorize indefinite commitment”); *McNeil*, 407 U.S. at 249-50 (upholding “short-  
8 term confinement with a limited purpose;” however, “by the same token, the duration of the  
9 confinement must be strictly limited” to adhere to due process); *Schall v. Martin*, 467 U.S. 253,  
10 269–70 (1984) (finding pre-trial detention of juveniles non-punitive because it was “strictly  
11 limited in time” and the maximum possible detention was 17 days).

12 74. Mr. Flores Jimenez’s detention is “‘excessive in relation to [its non-punitive] purpose’”  
13 because he does not pose a current risk of flight or danger to the community that can justify the  
14 33 months he has spent, and continues to spend, in civil incarceration. *Jones*, 393 F.3d at 934  
15 (internal citation omitted); *see also Salerno*, 481 U.S. at 747 (determining whether a restriction  
16 on liberty is punitive requires considering “whether it appears excessive in relation to the [non-  
17 punitive] purpose”) (quoting *Schall*, 467 U.S. at 269).

18 75. While Mr. Flores Jimenez did receive a bond hearing towards the beginning of his  
19 immigration proceedings on June 13, 2023, it has been well over two years since his last bond  
20 hearing. *See* Exh. F. At this hearing, the IJ denied Mr. Flores Jimenez bond based on  
21 dangerousness due to his likelihood of relapse into substance abuse. *Id.* Mr. Flores Jimenez has  
22 now been sober for over three years, is dedicated to his recovery and mental health, and does not  
23 pose a danger to the community. *See* Exh. A, (Flores Jimenez Decl.) ¶ 24, ¶¶ 38–45. Even if  
24 the Court finds there is some risk to his monitored release, any risk can be sufficiently mitigated  
25 with “alternative and less harsh methods” than continued and indefinite physical detention.  
26 *Jones*, 393 F.3d at 934 (internal citation omitted). As found by the court in *Zadvydas*, when it  
27 comes to immigration custody “[t]he choice . . . is not between imprisonment and the alien  
28 ‘living at large[,]’ . . . [i]t is between imprisonment and supervision under release conditions that

1 may not be violated.” 533 U.S. at 696 (internal citations omitted).

2 **A. Petitioner Does Not Pose a Flight Risk or Danger to the Community.**

3 76. **First**, Mr. Flores Jimenez does not pose any flight risk. During his initial bond  
4 determination in June 2023, the Government did not even put forth arguments that Mr. Flores  
5 Jimenez was a flight risk, and the IJ ultimately denied bond solely on dangerousness. *See* Exh.  
6 F. Mr. Flores Jimenez has resided in the United States since he was a toddler and has extensive  
7 family and community ties in California. *See* Exh. A, ¶ 3. His immediate family and numerous  
8 aunts, uncles, and cousins, all live in California. *Id.* The United States is the country Mr. Flores  
9 Jimenez was raised in and the only home he has ever known. *Id.* Mr. Flores Jimenez longs to  
10 be reunited with his family, with whom he is extremely close and with whom he attempts to  
11 have daily contact. *Id.* ¶ 32; ¶ 40. Before his incarceration, Mr. Flores Jimenez formed a deep  
12 bond with his young nephew, who has autism. *Id.* ¶ 42. Mr. Flores Jimenez longs to be released  
13 to aid in raising his two special needs nephews. *Id.*; *See* Exh. N; *Sales v. Johnson*, No. 16-CV-  
14 01745-EDL, 2017 WL 6855827, at \*1, \*5, \*7 (N.D. Cal. Sept. 20, 2017) (holding that the  
15 government had failed to establish flight risk for a habeas petitioner who had significant family  
16 ties and a pending petition for review with the Ninth Circuit, and ordering release).

17 77. Mr. Flores Jimenez is dedicated to fighting his immigration case and currently has  
18 a PFR pending at the Ninth Circuit Court of Appeals. Recently, the Ninth Circuit granted Mr.  
19 Flores Jimenez’s motion to stay his removal while his case is pending. *See Flores-Jimenez v.*  
20 *Bondi*, Dkt. 25. Studies show that 96% or 97% of non-detained immigrants with a lawyer attend  
21 all of their hearings, and alternatives to detention have “resulted in a 99% attendance rate at all  
22 EOIR hearings and a 95% attendance rate at final hearings.”<sup>7</sup>

23 78. Moreover, if he is released, Mr. Flores Jimenez will be supported fully by his immediate  
24 and extended family, as well as by the rehabilitation programs and mental health services he  
25 intends to enroll in. *See* Exh. A, ¶ 43–45; Exh. T. As discussed at length in his declaration,

26  
27 <sup>7</sup> *See* American Immigration Council, *Measuring In Absentia Removal in Immigration Court* (Jan.  
28 2021), <https://www.americanimmigrationcouncil.org/report/measuring-absentia-removal-immigration-court/>.

1 letters of support, and release plan, Mr. Flores Jimenez will also have the support of his loved  
2 ones, especially his parents and siblings. *See id*; Exhs. M–R (letters of support). If released,  
3 Mr. Flores Jimenez will participate in an outpatient rehabilitation program while living with his  
4 parents in Lodi, California. *See* Exh. M; Exh. T. Mr. Flores Jimenez is dedicated to improving  
5 his mental and physical health and serving as a mentor for his two young nephews. *See* Ex. A, ¶  
6 42; *Doe v. Barr*, No. 20-cv-02141-LB, 2020 WL 1820667, at \*11 (N.D. Cal. Apr. 12, 2020)  
7 (holding that an individual posed a minimal risk of flight due to his “substantial ties to the  
8 community” and “incentive to comply with the conditions of his supervision”).

9 79. **Second**, Mr. Flores Jimenez does not pose a danger to the community. He has remained  
10 steadfast in his sobriety for three years and has a structured release plan to mitigate any risk of  
11 relapse. Mr. Flores Jimenez plans to participate in an outpatient rehab program which will  
12 provide him with numerous other mental health resources. *See* Exh A, ¶ 43; Exh. T. He will  
13 also have support from his family’s religious community through St. Joachim Parish, and access  
14 to regular bible study. *See* Exh. P; Exh. R. For all these reasons, Mr. Flores Jimenez does not  
15 pose a present danger.

16 80. Mr. Flores Jimenez last had a bond hearing in June 2023. At that time, the IJ found that  
17 Mr. Flores Jimenez was a danger to the community due to the span and recency of his criminal  
18 convictions and likelihood of relapse. *See* Exh. F. While Mr. Flores Jimenez does have a  
19 criminal history dating back to before he was ever diagnosed or treated for his mental illnesses  
20 or intellectual disability, “committing [a] crime does not place [an immigration detainee] forever  
21 beyond redemption.” *Ngo v. INS*, 192 F.3d 390, 398 (3d Cir. 1999).<sup>8</sup> Since Mr. Flores  
22 Jimenez’s last bond hearing was over two years ago, the recency of his criminal history has  
23

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24 <sup>8</sup> At this point in time, Mr. Flores Jimenez’s detention has been so prolonged it exceeds any  
25 time he has spent in criminal custody for the underlying crimes deeming him removable. *See* Ex  
26 A, ¶ 15; Exh. I at 16; *see also Reynoso-Rodriguez v. Napolitano*, No. CIV S-08-321 MCEKJM,  
27 2009 WL 3157477, at \*7 (E.D. Cal. Sept. 28, 2009) (citing *Ngo*, 192 F.3d at 398) (finding *Ngo*’s  
28 reasoning persuasive as to “[w]hen detention is prolonged, special care must be exercised so  
that the confinement does not continue beyond the time when the original justifications for  
custody are no longer tenable.”).

1 increased in remoteness. *See Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 774 (N.D. Cal. 2019)  
2 (finding that petitioner’s amount of time since his last arrest for DUI had “now *doubled* to 32  
3 months” since his initial bond hearing); *see also Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d  
4 1024, 1027 (W.D. Wash. 2019) (finding that “[d]angerousness cannot be based on criminal  
5 history alone; the severity and recency of the criminal conduct must be taken into account. The  
6 IJ also must consider changes in circumstances that would make recidivism less likely.”).

7 81. Over the course of Mr. Flores Jimenez’s proceedings, the immigration court contradicts  
8 its own findings on whether he poses a danger due to relapse. During Mr. Flores Jimenez’s one  
9 and only full bond hearing, the IJ found it likely that he would not cease his drug and alcohol  
10 abuse, making him a danger to others. *See* Exh. F. But in her decision denying Mr. Flores  
11 Jimenez immigration relief under CAT, the IJ explicitly finds Mr. Flores Jimenez unlikely to  
12 relapse:

13 “And again, the Court reiterates: though Respondent has previously used mind and  
14 mood-altering substances as coping mechanisms in the past, he has been sober for an  
15 extended period of time, has been receiving treatment for depression, understands the  
16 negative consequences that come from using alcohol and illegal drugs to self-medicate,  
17 and is willing and eager to receive support and help from . . . his family and other  
18 services.” Exh. I at 43.

19 As referenced by the IJ, Mr. Flores Jimenez has been sober for three years and is dedicated to  
20 his continued sobriety in a structured environment with family support. *See* Ex. A, ¶ 24; ¶¶ 41–  
21 44; Exh. T. Thus, Mr. Flores Jimenez does not pose a danger to the community.

22 **B. Alternatively, Petitioner’s 33 Months of Physical Custody, Under Conditions**  
23 **Equal or Worse to Criminal Custody, Is Punitive.**

24 82. Even if Mr. Flores Jimenez poses some risk of flight or danger, the 33 months and  
25 counting he has spent in detention, under conditions equal or worse to criminal custody, is not  
26 proportional to that risk. Moreover, any such risk can be sufficiently mitigated by far less  
27 restrictive measures than continued physical custody. *See Perez v. Wolf*, 445 F. Supp. 3d 275,  
28 291, 295 (N.D. Cal. 2020) (upholding IJ’s finding of dangerousness and nonetheless ordering  
release from immigration detention on conditions of release based on substantive due process

1 claim); *see also infra* ¶¶ 82–84.

2 83. In the context of pre-trial detention in criminal proceedings, another form of civil  
3 custody, the Supreme Court in *Salerno* made clear that otherwise permissible detention violates  
4 the Due Process Clause once it becomes prolonged in relation to its purpose. 481 U.S. at 747  
5 n.4. The Ninth Circuit has likewise stated that, “at some point, regardless of the risks . . . due  
6 process will require that [a person subject to prolonged civil confinement] be released.” *United*  
7 *States v. Torres*, 995 F.3d 695, 709–10 (9th Cir. 2021) (noting that “all parties”—including the  
8 federal government—conceded this point); *see also United States v. Briggs*, 697 F.3d 98, 103  
9 (2d Cir. 2012) (“[F]or every set of circumstances, due process does impose some limit [on civil  
10 confinement].”). Applying *Salerno*, the Ninth Circuit in *Torres* held that 21 months of pre-trial  
11 detention “is approaching the limits of what due process can tolerate” for a defendant awaiting  
12 trial who had multiple prior convictions including for violent offenses and a history of failing to  
13 appear in court. 995 F.3d at 709-10. In *Torres*, the petitioner had already received *multiple*  
14 individualized hearings to determine whether he posed a flight risk or danger to the community,  
15 whereas Mr. Flores Natividad has only been provided with one opportunity to do so over his 33  
16 months of confinement. *See Torres*, 995 F.3d at 700.

17 84. Multiple courts have declared unconstitutional periods of confinement far shorter than  
18 Mr. Flores Jimenez’s 33 months in detention. *See, e.g., United States v. Theron*, 782 F.2d 1510,  
19 1516 (10th Cir. 1986) (holding four months pretrial detention “too long” and ordering release  
20 within 30 days if trial did not commence); *United States v. Gonzales Claudio*, 806 F.2d 334, 343  
21 (2d Cir. 1986) (holding 14 month detention unconstitutional and recognizing that “[d]etention  
22 that has lasted for fourteen months and, without speculation, is scheduled to last considerably  
23 longer, points strongly to a denial of due process”); *United States v. Zannino*, 798 F.2d 544, 548  
24 (1st Cir. 1986) (denying release on unique facts of case but recognizing that “assum[ing] that in  
25 many, perhaps most, cases, sixteen months would be found to exceed the due process limitations  
26 on the duration of pretrial confinement”); *United States v. Chen*, 820 F. Supp. 1205, 1210 (N.D.  
27 Cal. 1992) (one year detention unconstitutional); *United States v. Lofranco*, 620 F. Supp. 1324,  
28 1326 (N.D.N.Y. 1985) (six-month detention unconstitutional).

1 85. The liberty interest of a person subjected to prolonged civil confinement eventually  
2 becomes dispositive, such that *no* degree of government interest can outweigh it. Indeed, Mr.  
3 Flores Jimenez’s confinement of over 33 months already exceeds the duration of civil  
4 confinement that the Second Circuit has held as the *outer limit* of what the Constitution could  
5 withstand, even when *no* conditions of release could accomplish the government’s non-punitive  
6 objectives. *See United States v. Gonzales Claudio*, 806 F.2d 334, 341 (2d Cir. 1986) (setting  
7 outer limit of 14 months). The duration of Mr. Flores Jimenez’s confinement has also well  
8 exceeded the outer limit that has been set by the First Circuit. *See Zannino* 798 F.2d at 548–49  
9 (setting outer limit of 16 months). But the Court need not reach the issue here, because  
10 conditions of release can sufficiently protect against any conceivable government interest.

11 86. The punitive and impermissible nature of Mr. Flores Jimenez’s detention is also  
12 supported by the fact that his detention at GSA and now California City has been  
13 indistinguishable and, by most metrics, worse than the conditions of his criminal custody. Mr.  
14 Flores Jimenez has already completed the term of punishment that the state of California  
15 determined was appropriate for his underlying criminal convictions. Yet, Mr. Flores Jimenez  
16 has been subjected to unlivable and inhumane conditions at GSA and California City. Due  
17 process prohibits conditions of civil detention that are the same as or worse than criminal  
18 custody. *King*, 885 F.3d at 556–57.

19 87. The conditions at California City, where Mr. Flores Jimenez was recently transferred, are  
20 somehow worse. California City opened on August 29, 2025.<sup>9</sup> Since its opening, there have  
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26 <sup>9</sup> Lester Black, *Trump admin spends millions to reopen private California prison*, SFGATE (2025),  
27 <https://www.sfgate.com/centralcalifornia/article/trump-admin-reopen-private-california-prison-21037836.php> (last visited Sep 15, 2025)  
28

1 been allegations that the facility is operating without a valid business license.<sup>10</sup> In July, the  
 2 facility failed a fire department inspection.<sup>11</sup> There are reports that conditions in California City  
 3 are unsanitary and akin to the South Florida Detention Center, also known as “Alligator  
 4 Alcatraz”.<sup>12</sup>

5 88. Mr. Flores Jimenez has identified more than “one difference between the conditions of  
 6 his immigration detention and his state custody,” including worsening conditions related to  
 7 access to and quality of food, mental health care, general medical care, and issues with  
 8 overcrowding and cleanliness. *Espinoza v. Wofford*, No. 1:24-CV-01118-SAB-HC, 2025 WL  
 9 1556590, at \*9 (E.D. Cal. June 2, 2025); see Exh A, ¶ 23–37. Mr. Flores Jimenez feels these  
 10 worsening conditions acutely due to their impact on his mental health and the limits they impose  
 11 on his coping mechanisms. *Espinoza*, No. 1:24-CV-01118-SAB-HC, 2025 WL 1556590, at \*9.

12 89. When Mr. Flores Jimenes was at GSA, food portions were becoming smaller, with staff  
 13 becoming more restrictive on food access as the number of detainees increased. See Exh A, ¶  
 14 33. The food provided by GSA was inedible and often uncooked. *Id.* Mr. Flores Jimenez  
 15 needed to supplement his diet with food from the commissary, otherwise he would go hungry.  
 16 *Id.* But the commissary prices at GSA were double those in prison. *Id.* When Mr. Flores did  
 17 eat the food provided by GSA, he often experienced stomach issues. *Id.* The food in California  
 18 City is also provided in small portions and is often inedible. Exh. U, at ¶ 9. When Mr. Flores

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 20 <sup>10</sup> Peter Segall, *Cal City Detention Center is housing detainees; advocates say it doesn't have permits*,  
 21 YAHOO! NEWS (2025), [https://www.yahoo.com/news/articles/cal-city-detention-center-housing-010200283.html?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cuc2ZnYXRILmNvbS9jZW50cmFsY2FsaWZvcn5pYS9hcnRyY2xIL3RydW1wLWlWfkbWluLXJlb3Blbi1wcm12YXRILWNhbGlmb3JuaWEtcHJpc29uLTIxMDM3ODM2LnBocA&guce\\_referrer\\_sig=AQAAAEF7P8P0nOL5ob-NLb4gWPBQR3vPzZsj24AxPZb0\\_Y1DtjwBLIy-FuKsJRBfdz-IOxhoFVp0uWSWpsHAC0mJL9IZXHrlzNf5ESFtuv50ZBcm1e1IHJsffhNRkr90eoyTmldWqi09b\\_Yjq3e-U5-j0qSCrEpOU3xXQDkX1CAaCWly](https://www.yahoo.com/news/articles/cal-city-detention-center-housing-010200283.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuc2ZnYXRILmNvbS9jZW50cmFsY2FsaWZvcn5pYS9hcnRyY2xIL3RydW1wLWlWfkbWluLXJlb3Blbi1wcm12YXRILWNhbGlmb3JuaWEtcHJpc29uLTIxMDM3ODM2LnBocA&guce_referrer_sig=AQAAAEF7P8P0nOL5ob-NLb4gWPBQR3vPzZsj24AxPZb0_Y1DtjwBLIy-FuKsJRBfdz-IOxhoFVp0uWSWpsHAC0mJL9IZXHrlzNf5ESFtuv50ZBcm1e1IHJsffhNRkr90eoyTmldWqi09b_Yjq3e-U5-j0qSCrEpOU3xXQDkX1CAaCWly) (last visited Sep 15, 2025).

24 <sup>11</sup> Tyche Hendricks, *California's newest immigration facility is also its biggest. is it operating legally?*  
 25 KQED (2025), <https://www.kqed.org/news/12054544/californias-newest-immigration-facility-is-also-its-biggest-is-it-operating-legally> (last visited Sep 15, 2025).

27 <sup>12</sup> Lester Black, *Trump admin spends millions to reopen private California prison*, SFGATE (2025),  
 28 <https://www.sfgate.com/centralcalifornia/article/trump-admin-reopen-private-california-prison-21037836.php> (last visited Sep 15, 2025).

1 Jimenez first arrived to California City, he did not even have access to his commissary. *Id.* at ¶  
2 3. Once he did receive access, the prices for items were double what they had been at GSA. *Id.*  
3 Thus, commissary prices have now quadrupled in price from Mr. Flores Jimenez’s time in  
4 prison.

5 90. While at GSA, the facility had also become increasingly unclean. Exh. A, at ¶ 34. The  
6 bathrooms were full of urine and hair. *Id.* Mr. Flores Jimenez attributed the state of  
7 uncleanliness to overcrowding in his unit. *Id.* He believes the unsanitary conditions also led to  
8 his first UTI, something he did not even experience while homeless. *Id.* He struggled to gain  
9 access to basic hygiene products, such as toothbrushes or toilet paper, having to wait three to  
10 four days in between requests for these essential items. *Id.* ¶ 35. The delay in receiving basic  
11 necessities also extended to the availability of fresh undergarments and laundry access. *Id.*

12 91. The sanitary conditions have only worsened at California City. The facility was so  
13 unclean when Mr. Flores Jimenez arrived that he and his unit members had to request cleaning  
14 supplies to make their living quarters habitable. Exh. U at ¶ 5. Mr. Flores Jimenez and those in  
15 his unit have not been paid for their labor. *Id.* Due to ongoing construction at California City,  
16 Mr. Flores Jimenez must clean his cell about three times a day because there is dust everywhere.  
17 *Id.* at ¶¶ 5–7. Mr. Flores Jimenez’s unit receives a 5-gallon jug of water each day. *Id.* at ¶ 6.  
18 Once the jug is empty, Mr. Flores Jimenez has no access to water as the sink water is  
19 undrinkable, and it takes the staff several hours to provide refills. *Id.* Recently, one of Mr.  
20 Flores Jimenez’s unit members discovered the jug is filled with mold. *Id.*

21 92. As an individual diagnosed with several mental illnesses, consistent and quality medical  
22 care is essential to Mr. Flores Jimenez’s health. While in prison, Mr. Flores Jimenez received  
23 his medication at regularly scheduled intervals. Exh. A at ¶ 25. In contrast, GSA’s irregular  
24 medication schedule led to his missing on average three to five doses a month. *Id.* at ¶ 26. The  
25 California Department of Justice also identified GSA as having “inadequate medication  
26 management.”<sup>13</sup> During his transfer to California City, Mr. Flores Jimenez was not given his

27 <sup>13</sup> CAL. DEP’T OF JUSTICE, IMMIGRATION DETENTION IN CALIFORNIA: A COMPREHENSIVE REVIEW WITH A  
28 FOCUS ON MENTAL HEALTH 53, (2025), <https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf>.

1 medication at all. Exh. U at ¶ 11. When Mr. Flores Jimenez did receive his medication, it was  
2 on a completely different medication schedule than what he was used to. *Id.* As of September  
3 14, 2025, Mr. Flores Jimenez was told that his prescriptions no longer appear in California  
4 City’s official system and was outright denied his anxiety and seizure medication. *Id.* at 12.

5 93. In prison, Mr. Flores Jimenez had frequent visits by a mental health professional who  
6 would help him manage his anxiety. *Id.* ¶ 31. He did not have regular check-ins with a mental  
7 health professional at GSA, but instead his medication was renewed monthly. *Id.* ¶ 32. It is  
8 unclear whether Mr. Flores Jimenez’s medical needs were being adequately addressed where it  
9 appears that the “progress notes in [his] medical charts were . . . copied and pasted from  
10 previous visits rather than reflecting the treatment and observations of mental health staff  
11 present during the visits documented.”<sup>14</sup> Exh. A at ¶ 37. Overall, while at GSA, Mr. Flores  
12 Jimenez was subjected to subpar mental health treatment, as GSA’s “[m]ental health and  
13 medical staff d[o] not engage in appropriate treatment planning or multidisciplinary treatment to  
14 address [his] needs.”<sup>15</sup> Presently, at California City, Mr. Flores Jimenez has not seen a doctor or  
15 mental health professional at all. Exh. U at ¶ 12.

16 94. A major part of Mr. Flores Jimenez’s coping mechanism for his mental health is exercise  
17 and yard time. *Id.* ¶ 27–28. Yard time had become increasingly restricted at GSA, with overall  
18 yard time being cut down from four hours daily to three. *Id.* ¶ 28. At California City, Mr.  
19 Flores Jimenez’s yard time only amounts to one hour a day total. Exh. U at ¶ 10. Further, Mr.  
20 Flores Jimenez’s other main coping mechanism, contact with his family, has also become more  
21 restricted. In immigration detention, Mr. Flores Jimenez does not have free phone calls, as he  
22 did in prison, but must pay for phone calls. *Id.* at ¶ 32. At GSA, phone availability was  
23 becoming scarcer as more detainees joined his unit. *Id.* GSA also cracked down on in-person  
24 visitation, starting visitation timers during their slotted start times, even if visitors were delayed.  
25 *Id.* ¶ 35. This was especially difficult for Mr. Flores Jimenez’s family members who lived a  
26

27 <sup>14</sup> CAL. DEP’T OF JUSTICE, IMMIGRATION DETENTION IN CALIFORNIA: A COMPREHENSIVE REVIEW WITH A  
28 FOCUS ON MENTAL HEALTH 5, (2025), <https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf>.

<sup>15</sup> *Id.* at 53

1 nearly four-hour drive from GSA. *See* Exhs. M–Q. At California City, Mr. Flores Jimenez  
2 cannot even receive incoming phone calls from his family, Exh. U at ¶ 14. His transfer has also  
3 eliminated the possibility of future in-person visits from his family, who now live too far from  
4 the detention center to visit him. *Id.* at ¶ 14. Even if Mr. Flores Jimenez’s family could visit  
5 him in person, visits at California City are limited to only 30 minutes and are behind glass  
6 compared to GSA’s almost two-hour contact visits. *Id.*

7 95. As described above, conditions at GSA recently deteriorated due to overcrowding which  
8 began in January 2025. Exh. A, ¶ 28. Furthermore, there are serious concerns about the safety  
9 and overall conditions at the newly opened California City.<sup>16</sup> Considering that Mr. Flores  
10 Jimenez was last before an IJ for bond in June 2023, no adjudicator has resolved the question of  
11 whether current conditions are excessive as to Mr. Flores Jimenez. *See Romero-Romero v.*  
12 *Wofford*, No. 1:24-CV-00944-SKO (HC), 2025 WL 391861, at \*9 (E.D. Cal. Feb. 4, 2025)  
13 (finding that the “question whether the conditions are excessive to him has been resolved by the  
14 IJ in the previous bond hearing.”)

15 96. Mr. Flores Jimenez’s prolonged detention is further unjustified because any risk of flight  
16 or danger can be successfully mitigated with less restrictive measures than physical custody. In  
17 other words, the Government’s objectives can be accomplished through “alternative and less  
18 harsh methods,” including reasonable conditions of supervision upon release. *Jones*, 393 F.3d at  
19 932.

20 97. Immigration authorities already claim to have developed and successfully implemented  
21 programs to supervise individuals while their removal proceedings remain pending. ICE’s  
22 Intensive Supervision Appearance Program (“ISAP”), for example, has achieved near-perfect  
23 compliance with court obligations. *See Hernandez*, 872 F.3d at 991 (ISAP “resulted in a 99%  
24 attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”).

25 98. Such alternative supervision programs are also significantly less costly than continued  
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27 <sup>16</sup> Lester Black, *Trump admin spends millions to reopen private California prison*, SFGATE (2025),  
28 <https://www.sfgate.com/centralcalifornia/article/trump-admin-reopen-private-california-prison-21037836.php> (last visited Sep 15, 2025).

1 incarceration. According to a recent ICE budget overview published by DHS, the daily cost of  
2 detention in fiscal year 2023 was \$187.48 per day.<sup>17</sup> Applied here, the Government has already  
3 spent over \$189,000 to house, feed, and provide 24-hour staffing to detain Mr. Flores Jimenez  
4 for over 33 months. Mr. Flores Jimenez’s release from custody would significantly reduce the  
5 government’s added burden on taxpayers for the duration of his case, which could continue for  
6 months or years into the future.

7 99. Moreover, Mr. Flores Jimenez has a structured release plan that includes enrollment in a  
8 vigorous outpatient rehabilitation and mental health program, in combination with several layers  
9 of support from family and community organizations. *See* Exh. T. The conditions of Mr. Flores  
10 Jimenez’s release will successfully protect any conceivable governmental interest; thus his  
11 continued detention is unconstitutionally punitive.

12 100. Mr. Flores Jimenez has already been subject to detention for over 33 months and is  
13 expected to remain in detention at least several more months, and possibly years, if his case is  
14 remanded and if either side appeals after a new decision on remand. All the while, Mr. Flores  
15 Jimenez has already completed his criminal sentence for his past convictions that occurred over  
16 three years ago. Because Mr. Flores Jimenez has deep ties and a strong support system in the  
17 United States, and has demonstrated a concrete plan for his re-entry, the length and conditions of  
18 his confinement are not proportional to any risk he currently poses.

19 **C. This Court Has Authority to Order Release as a Remedy to a Substantive**  
20 **Due Process Violation.**

21 101. If the Court finds that Mr. Flores Jimenez’s continued detention is punitive and violates  
22 substantive due process, the proper remedy is to order release.

23 102. That remedy is well within this Court’s habeas power. The federal habeas statute directs  
24 district courts to “hear and determine the facts” of a habeas petition and to “dispose of the matter  
25 as law and justice require.” 28 U.S.C. § 2243; *see also* *Hilton v. Braunskill*, 481 U.S. 770, 775  
26 (1987) (explaining that as far back as the nineteenth century, “the Court interpreted the

27 <sup>17</sup> DEP’T OF HOMELAND SEC., U.S. IMMIGR. & CUSTOMS ENFORCEMENT BUDGET OVERVIEW 26, (2025),  
28 [https://www.dhs.gov/sites/default/files/2024-04/2024\\_0308\\_us\\_immigration\\_and\\_customs\\_enforcement.pdf](https://www.dhs.gov/sites/default/files/2024-04/2024_0308_us_immigration_and_customs_enforcement.pdf)

1 predecessor of § 2243 as vesting a federal court ‘with the largest power to control and direct the  
2 form of judgment to be entered in cases brought up before it on habeas corpus’”) (quoting *In re*  
3 *Bonner*, 151 U. S. 242, 261 (1894)).

4 103. In immigration habeas cases, courts regularly order release upon determining that  
5 detention violates substantive due process. *See, e.g., Lawson v. Gerlinski*, 332 F. Supp. 2d. 735,  
6 744–45 (M.D. Pa. 2004) (concluding that petitioner’s prolonged immigration detention violated  
7 substantive due process and ordering release); *Oyedeki v. Ashcroft*, 332 F. Supp. 2d 747, 752  
8 (M.D. Pa. 2004) (same); *Nunez- Pimentel v. ICE*, No. 1:07-CV-1915, 2008 WL 2593806, at \*5  
9 (M.D. Pa. June 27, 2008) (same); *see also Ekeh v. Gonzales*, 197 F. App’x 637, 638 (9th Cir.  
10 2006) (ordering supervised release pursuant to *Zadvydas*); *Bah v. Cangemi*, 489 F. Supp. 2d  
11 905, 919 (D. Minn. 2007) (same); *Nguyen v. Fasano*, 84 F. Supp. 2d 1099, 1113 (S.D. Cal.  
12 2000) (issuing order to show cause why petitioner should not be released pursuant to *Zadvydas*).  
13 Indeed, district courts in this Circuit have regularly ordered release when conditions of  
14 confinement are excessive in relation to a detained person’s risk of flight or danger to the  
15 community. *See, e.g., Bent v. Barr*, 445 F.Supp.3d 408, 414–415, 421 (N.D. Cal. 2020) (finding  
16 that petitioner’s previous two felony convictions did not outweigh considerations in favor of his  
17 release); *Doe v. Barr*, No. 20-cv-02141-LB, 2020 WL 1820667, \*8–\*10 (N.D. Cal. Apr. 12,  
18 2020) (finding that the risks petitioner faced in detention outweighed any risk of danger  
19 considering his rehabilitation); *Doe v. Barr*, No. 20-cv-02263-RMI, 2020 WL 1984266, \*6–\*7  
20 (N.D. Cal. Apr. 27, 2020) (finding that petitioner’s health issues, including his mental illnesses,  
21 made his detention excessive in light of the COVID-19 pandemic); *see also Maklad v. Murray*,  
22 No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376, at \*10 (E.D. Cal. Aug. 8, 2025) (ordering  
23 petitioner’s immediate release via preliminary injunction after her parole was revoked without  
24 notice); *Singh v. Andrews*, No. 1:25-CV-00801-KES-SKO (HC), 2025 WL 1918679, at \*1 (E.D.  
25 Cal. July 11, 2025) (ordering petitioner’s immediate release via preliminary injunction after his  
26 parole was revoked without notice).

27 104. Under such circumstances, district courts may impose conditions of release to manage the  
28 governmental interests at stake. *See, e.g., Ortuño*, 2020 WL 1701724, \*5 (setting conditions of

1 release); *Zepeda Rivas v. Jennings*, No. 20-CV-02731-VC, 465 F. Supp. 3d 1028, 1036 (N.D.  
2 Cal. 2020) (citing inherent habeas authority to release on bail). This Court has authority to craft  
3 such appropriate conditions, so long as the conditions satisfy constitutional safeguards. *See*  
4 *Hernandez*, 872 F.3d at 990–91 (“[I]nability to post money bail” violates due process “if the  
5 individual’s ‘appearance at trial could reasonably be assured by one of the alternate forms of  
6 release.’”) (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)).  
7 105. Here, because Mr. Flores Jimenez’s prolonged detention is excessive, punitive, and  
8 unnecessary in relation to any governmental interest, the Court must order his release.

9 **II. Alternatively, Petitioner’s Prolonged Detention Without an Individualized Bond**  
10 **Hearing in 33 Months Violates Due Process.**

11 106. Because Mr. Flores Jimenez is subject to punitive civil incarceration in violation of  
12 substantive due process, this Court need not reach the question of whether his detention also  
13 violates procedural due process. However, if the Court does reach the issue, the Court should  
14 find that Mr. Flores Jimenez’s prolonged and ongoing detention without any individualized  
15 evaluation of the government’s asserted justification for confinement violates procedural due  
16 process. *See Zadvydas*, 533 U.S. at 693 (2001) (citations omitted). Mr. Flores Jimenez is thus  
17 entitled to a prompt, evidentiary custody hearing by this Court, which must “hear and determine  
18 the facts” of his habeas petition and “dispose of the matter as law and justice require.” 28  
19 U.S.C. § 2243.

20 **A. Petitioner Is Entitled to a Custody Hearing Where He Has Been Detained**  
21 **Longer Than Six Months.**

22 107. Detention without a bond hearing becomes unconstitutional when it exceeds six months.  
23 *See Demore*, 538 U.S. at 529–30 (upholding only “brief” detentions under Section 1226(c),  
24 which last “roughly a month and a half in the vast majority of cases in which it is invoked, and  
25 about five months in the minority of cases in which the [noncitizen] chooses to appeal”);  
26 *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the constitutionality of detention for  
27 more than six months.”); *Rodriguez Diaz*, 53 F.4th at 1091 (“[O]nce the [noncitizen] has been  
28 detained for approximately six months, continuing detention becomes prolonged” (quoting

1 *Diouf II*, 634 F.3d at 1091) (cleaned up); *Peters, v. Wofford*, No. 1:25-CV-00497-SKO (HC),  
2 2025 WL 2299801, at \*6 (E.D. Cal. Aug. 8, 2025) (noting “the six-month presumptive period  
3 set forth in *Zadvydus* beyond which continued detention becomes prolonged”).

4 108. The recognition that six months is a substantial period of confinement, after which  
5 additional process is required to justify continued incarceration, is deeply rooted in our legal  
6 tradition. With few exceptions, “in the late eighteenth century in America crimes triable without  
7 a jury were for the most part punishable by no more than a six-month prison term.” *Duncan v.*  
8 *Louisiana*, 391 U.S. 145, 161, 88 S. Ct. 1444, 1454 (1968). Consistent with this tradition, the  
9 Supreme Court has recognized that six months is a meaningful benchmark in various contexts  
10 where a person’s liberty is at stake. *See, e.g., United States v. Nachtigal*, 507 U.S. 1, 5 (1993)  
11 (characterizing as “severe” the “loss of liberty caused by imprisonment for more than six  
12 months”); *Blanton v. North Las Vegas, Nev.*, 489 U.S. 538, 542–43 (1989) (reasoning that  
13 because “the loss of liberty” from incarceration is so “sever[e]” and “an ‘intrinsically different’  
14 form of punishment,” additional procedural safeguards after six months are necessary); *Taylor v.*  
15 *Hayes*, 418 U.S. 488, 495–96 (1974) (holding that states may not impose sentences exceeding  
16 six months without a jury trial).

17 109. The Supreme Court has also extended this six-month line to the civil context in a case  
18 setting out procedural requirements for civil commitments related to mental health. *See McNeil*,  
19 407 U.S. at 249–52. In *McNeil*, the Court held that due process requires the duration of even  
20 shorter-term confinements to be “strictly limited,” and that the six-month limit for civil  
21 commitments without an individualized inquiry originally laid out by the relevant statute  
22 “provides a useful benchmark.” *Id.* at 249–50. The Court has likewise recognized the need for  
23 bright line constitutional rules in other areas of law. *See Maryland v. Shatzer*, 559 U.S. 98, 110  
24 (2010) (holding that 14 days must elapse following invocation of Miranda rights before  
25 reinterrogation is permitted); *Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 55–56 (1991)  
26 (holding that a probable cause hearing must take place within 48 hours of warrantless arrest).

27 110. In the immigration context, the Ninth Circuit has found that when “detention crosses the  
28 six-month threshold and release or removal is not imminent,” “a hearing before a neutral

1 decision maker” is a “reasonable” procedural safeguard. *Diouf II*, 634 F.3d at 1092. Although  
2 *Diouf II* specifically addressed the legality of prolonged detention under 8 U.S.C. § 1231(a)(6),  
3 its reasoning applies equally, if not with more force, to immigration detention under Section  
4 1226(c). *See id.* at 1087 (recognizing that although “[t]he government may be correct that at the  
5 margin,” Section “1231(a)(6) detainees have a lesser liberty interest” than Section 1226(a)  
6 detainees, and the government may have a “marginally greater” interest in detaining the former  
7 group, those differences do not change the outcome). Relying on this clear line of precedent, a  
8 court in the Northern District of this Circuit applied the six-month line to immigration detention  
9 under Section 1226(c): holding that, after six months of detention, the Constitution requires an  
10 individualized inquiry into whether his custody is justified. *See Rodriguez v. Nielsen*, No. 18-  
11 cv-04187-TSH, 2019 WL 7491555, at \*6 (N.D. Cal. Jan. 7, 2019) (“[D]etention becomes  
12 prolonged after six months and entitles [a detainee] to a bond hearing.”); *see also Diouf II*, 634  
13 F.3d at 1092 n.13 (holding that detention is prolonged and thus requires heightened procedural  
14 safeguards “when it has lasted six months and is expected to continue more than minimally  
15 beyond six months.”).

16 111. Because ICE has already detained Mr. Flores Jimenez for more than 33 months—over  
17 five times the six-month threshold, Mr. Flores Jimenez is clearly entitled to a prompt,  
18 individualized inquiry into the justification for his detention by a neutral arbiter—i.e., this Court.  
19 *See Rodriguez*, 2019 WL 7491555, at \*7.

20 **B. Petitioner Is Entitled to an Individualized Hearing Under Either the *Lopez***  
21 **Multi-Factor Approach or the *Mathews* Balancing Test, and His Entitlement to a**  
22 **Hearing is Strengthened by the *German Santos* Factors.**

23 112. Courts in the Ninth Circuit have applied various multifactor tests to determine whether a  
24 petitioner’s detention without an individualized bond hearing has become so prolonged that it  
25 violates due process. *Abdul-Samed*, No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343, at \*6  
26 (collecting examples of the different multi-factor tests applied in this circuit). Under *Lopez*,  
27 where a petitioner is requesting an initial bond hearing, courts consider “the total length of  
28 detention to date, the likely duration of future detention, and the delays in the removal

1 proceedings caused by the petitioner and the government.” *Lopez*, 631 F. Supp. 3d at 879.  
2 Some courts have chosen to apply the *Mathews* test when the petitioner is “seeking a second  
3 bond hearing.” *Hilario M.R. v. Warden, Mesa Verde Det. Ctr.*, No. 1:24-CV-00998-EPG-HC,  
4 2025 WL 1158841, at \*7 (E.D. Cal. Apr. 21, 2025); *see also Espinoza* No. 1:24-CV-01118-  
5 SAB-HC, 2025 WL 1556590, at \*12 (same). Under either approach, and in line with the  
6 additional factors outlined by the Third Circuit in *German Santos*, Mr. Flores Jimenez’s 33  
7 months of detention requires that he receive a prompt bail hearing.

8 1. The *Lopez* factors weigh in favor of ordering an individualized bond  
9 hearing for Petitioner.

10 113. This Court should apply the *Lopez* test where Petitioner’s initial bond hearing took place  
11 over 27 months ago, and the rationales the IJ provided for denying Mr. Flores Jimenez bond are  
12 moot since the IJ found Mr. Flores Jimenez rehabilitated. *Compare* Exh. F, with Exh. I at 43.  
13 No neutral adjudicator has assessed whether Mr. Flores Jimenez poses a risk of danger or flight  
14 since this rehabilitation. “To determine whether § 1226(c) detention has become unreasonable,  
15 [courts] will look to the total length of detention to date, the likely duration of future detention,  
16 and the delays in the removal proceedings caused by the petitioner and the government.” *Lopez*,  
17 631 F. Supp. 3d at 879. All three factors discussed in *Lopez* weigh in favor of this Court  
18 holding a bail hearing for Petitioner.

19 114. **First**, “the length of detention to date, ‘which is the most important factor,’” weighs in  
20 favor of Mr. Flores Jimenez. *Abdul-Samed*, No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343,  
21 at \*8 (internal citations omitted). “In general, ‘[a]s detention continues past a year, courts  
22 become extremely wary of permitting continued custody absent a bond hearing.’” *Id.* (quoting  
23 *Gonzalez v. Bonnar*, No. 18-cv-05321-JSC, 2019 WL 330906, at \*3 (N.D. Cal. Jan. 25, 2019))  
24 (alteration in original) (internal quotations omitted); *see also Lopez*, 631 F. Supp. 3d at 880  
25 (acknowledging that “detention ‘exceed[ing] one year . . . is . . . presumptively unreasonable’”)  
26 (quoting *Alphonse v. Moniz*, No. 21-11844-FDS, 2022 WL 279638, at 9\* (D. Mass. Jan. 31,  
27 2022)). Some courts in this circuit have found significantly less time in detention unreasonable.  
28 *See e.g., Perera v. Jennings*, No. 21-cv-04136-BLF, 2021 WL 2400981, \*2 (N.D. Cal. June 11,

1 2011) (granting TRO and ordering individualized bond hearing for petitioner detained almost  
2 two months). Mr. Flores Jimenez’s detention of 33 months is therefore unreasonably prolonged  
3 and supports granting Mr. Flores Jimenez’s request for a bail hearing.

4 115. **Second**, the likely duration of Petitioner’s future detention pending his Ninth Circuit  
5 appeal also weighs in favor of finding his prolonged detention unreasonable. Petitioner’s PFR is  
6 currently pending before the Ninth Circuit, and his removal is stayed until he receives a decision  
7 in his appeal. *See K*. If Petitioner is successful in his PFR, then his case will be remanded to  
8 the BIA and possibly further remanded to the IJ. The completion of Petitioner’s judicial review  
9 by the Ninth Circuit and potential administrative appeal ““would add months more in prison’  
10 such that the likelihood that [petitioner’s] detention will continue strongly supports a finding of  
11 unreasonableness.” *Lopez*, 631 F. Supp. 3d at 881 (quoting *German Santos*, 965 F.3d at 212).  
12 The likelihood of continued delay, therefore, weighs in his favor.

13 116. **Third**, and lastly, the delays in Petitioner’s removal proceedings do not undermine the  
14 unreasonableness of his prolonged detention.

15 117. The continuances that Petitioner requested in immigration court were in pursuit of  
16 ““raising legitimate defense[s] to removal . . . and such challenges to his removal cannot  
17 undermine his claim that detention has become unreasonable.”” *Lopez*, 631 F. Supp. 3d at 881  
18 (quoting *Liban M.J. v. Sec’y of Dep’t of Homeland Sec.*, 367 F. Supp. 3d 959, 965 (D. Minn.  
19 2019)). Petitioner’s immigration court proceedings commenced on November 17, 2022. *See*  
20 *Exh. B*. As the IJ noted, Petitioner made three requests for continuances in immigration court  
21 proceedings. *See Exh. I* at 2. The first was immediately following his counsel’s appointment as  
22 his QR, *see Exh. E* at 14, the second was to obtain a psychological evaluation, *id.* at 19, and the  
23 third was requesting a “one-to-two week continuance” to review criminal records, *id.* at 24.

24 118. Petitioner’s PFR is currently pending at the Ninth Circuit. *See generally Exh. K*. Courts  
25 have found that where a petitioner’s appeal is made in good faith, this fact weighs in favor of the  
26 petitioner. *See Singh v. Garland*, No. 1:23-CV-01043-EPG-HC, 2023 WL 5836048, at \*9 (E.D.  
27 Cal. Sept. 8, 2023) (“As there is nothing before the Court indicating that Petitioner is acting in  
28 bad faith in challenging his removal, the Court finds this factor weighs in favor of Petitioner.”);

1 *see also German Santos*, 965 F.3d at 211 (“But we do not hold an alien’s good-faith challenge to  
2 his removal against him, even if his appeals or applications for relief have drawn out the  
3 proceedings.”).

4 119. Meanwhile, the Government has caused numerous delays in Petitioner’s administrative  
5 and Ninth Circuit proceedings. First, the Government was required to re-serve Petitioner’s  
6 NTA. *See* Exh. E at 28. Petitioner then appealed the IJ’s first erroneous denial of his claims for  
7 relief, and the Board granted remand on April 25, 2024. *See* Exh. H. Even where courts do not  
8 “hold the agency’s legal errors against the Government, . . . detention under 1226(c) can still  
9 grow unreasonable.” *German Santos*, 965 F.3d at 211.

10 120. Thus, while both Mr. Flores Jimenez and the Government have contributed to some delay  
11 in his proceedings, Mr. Flores Jimenez’s delays have been for the permissible purpose of  
12 “rais[ing] legitimate defenses to his removal.” *Lopez*, 631 F. Supp. 3d at 881. Indeed, the  
13 Ninth Circuit acknowledged that Mr. Flores Jimenez’s current PFR is not meritless when it  
14 granted his motion for a stay of removal. *See* Exh. K; *see also Nken v. Holder*, 556 U.S. 418,  
15 434 (2009) (“The first factor [a court considers when deciding whether to grant a motion for stay  
16 of removal], a strong showing of a likelihood of success on the merits, requires more than a  
17 mere possibility that relief will be granted.”). The Government’s delays, on the other hand, have  
18 been the result of its own erroneous actions. *See* Exh. E at 28; *see also* Exh. J. The final *Lopez*  
19 factor, therefore, weighs in Mr. Flores Jimenez’s favor. Because all three factors weigh in his  
20 favor, this Court should grant Mr. Flores Jimenez’s request for a prompt bail hearing.

21 2. Petitioner is entitled to an individualized determination under the *Mathews*  
22 balancing test.

23 121. The *Mathews* test balances (1) the private interest threatened by governmental action; (2)  
24 the risk of erroneous deprivation of such interest and the probable value of additional procedural  
25 safeguards; and (3) the government interest. 424 U.S. at 335. Numerous courts applying the  
26 *Mathews* test have found that prolonged detention under Section 1226(c) without an  
27 individualized hearing violates procedural due process. *See, e.g., Diep v. Wofford*, No. 1:24-  
28 CV-01238-SKO (HC), 2025 WL 604744, at \*4–\*5 (E.D. Cal. Feb. 25, 2025) (finding all three

1 factors weighed in petitioner’s favor where petitioner received no bond hearing in 13 months of  
2 detention and ordering a bond hearing); *Sho v. Current or Acting Field Off. Dir.*, No. 1:21-CV-  
3 01812 TLN AC, 2023 WL 4014649, at \*4 (E.D. Cal. June 15, 2023), *report and*  
4 *recommendation adopted*, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21,  
5 2023) (finding all three factors weighed in favor of petitioner where petitioner had been detained  
6 28 months and collecting cases finding the same but where petitioners were detained for less  
7 time).

8 122. Because Mr. Flores Jimenez has not received a bond hearing in 27 months, the *Mathews*  
9 factors clearly weigh in his favor and this Court should promptly hold a bail hearing to evaluate  
10 whether Respondents can justify his continued detention.

11 123. **First**, Mr. Flores Jimenez’s private interest in his liberty, the main private interest here, is  
12 “unquestionably substantial.” *Hilario M.R. v. Warden*, Mesa Verde Det. Ctr., No. 1:24-CV-  
13 00998-EPG-HC, 2025 WL 1158841, at \*7 (E.D. Cal. Apr. 21, 2025) (quoting *Rodriguez Diaz*,  
14 53 F.4th at 1207) (internal quotations omitted). “Freedom from imprisonment—from  
15 government custody, detention, or other forms of physical restraint—lies at the heart of the  
16 liberty [the Due Process Clause] protects.” *Zadvydas*, 533 U.S. at 690. Mr. Flores Jimenez’s  
17 private interest is particularly strong because the length of his detention is significant. *See id.* at  
18 701 (strength of liberty interest increases as period of confinement grows).

19 124. ICE has already imprisoned Mr. Flores Jimenez for over 33 months, and neither release  
20 nor removal are expected anytime soon, as Mr. Flores Jimenez continues to mount a good faith  
21 defense to removal. *See Diouf II*, 634 F.3d at 1091–92 (“When detention crosses the six-month  
22 threshold and release or removal is not imminent, the private interests at stake are profound.”).  
23 Mr. Flores Jimenez’s time in civil detention is now over five times the length of the “brief” six-  
24 week detention contemplated by the Supreme Court in *Demore*. *See Demore*, 538 U.S. at 523,  
25 530 (citing an average detention length of one and a half months for immigration cases).

26 125. The process Mr. Flores Jimenez has received to protect this interest so far was  
27 insufficient to tip this factor in the Government’s favor. Mr. Flores Jimenez’s initial bond  
28 hearing took place over 27 months ago. Exh. F. The IJ has since found Mr. Flores Jimenez

1 rehabilitated in the context of her decision on the merits of his claim—a finding antithetical to  
2 her rationales for denying bond. *Compare* Exh. I at 43, *with* Exh. F. When Mr. Flores Jimenez  
3 requested a custody redetermination based on that rehabilitation and worsening conditions at  
4 GSA, the IJ erroneously refused for lack of jurisdiction. *See* Exh. O; *see also Prieto-Romero v.*  
5 *Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008). His only remedy is therefore before this Court.

6 126. Mr. Flores Jimenez’s private interest is further strengthened by the conditions of his civil  
7 detention at GSA and now California City. Both GSA and California City were formerly state  
8 prisons and the conditions at these facilities have been and remain equally or more punitive than  
9 those of a prison. *See supra* at ¶¶ 86–95; *Gonzalez*, No. 18-cv-0531-JSC, 2019 WL 330906, at  
10 \*5 (“[C]ourts consider the conditions of the [noncitizen’s] detention because [noncitizens] held  
11 under § 1226(c) are subject to civil detention rather than criminal incarceration.” (quoting *Muse*  
12 *v. Sessions*, 409 F. Supp. 3d 707, 717 (D. Minn. 2018)); *Martinez v. Clark*, No. C18-1669-RAJ-  
13 MAT, 2019 WL 5968089, at \*9 (W.D. Wash. May 23, 2019) (“[T]he more that “conditions  
14 under which the [noncitizen] is being held resemble penal confinement, the stronger his  
15 argument that he is entitled to a bond hearing.” (citation omitted)).

16 127. Mr. Flores Jimenez’s liberty interest, furthermore, is particularly profound because of the  
17 depth of his ties to the United States, which must be afforded weight under the *Mathews* test.  
18 *See Landon*, 459 U.S. at 34 (in applying the first *Mathews* factor, weighing the right to “rejoin  
19 [one’s] immediate family” as “rank[ing] high among the interests of” a detained individual with  
20 longstanding ties to the United States); *id.* (recognizing the “right ‘to stay and live and work in  
21 this land of freedom’” (citation omitted)). Mr. Flores Jimenez has lived in the United States for  
22 nearly his entire life, since immigrating as an LPR at just four years old. *See* Exh. A at 3. His  
23 entire family resides in the United States, including his mother, father, brother, sisters, and  
24 nephews. *See id.* at ¶ 2. His release will allow him to further these bonds, particularly with his  
25 young nephews. *Id.* Mr. Flores Jimenez’s extensive ties to the United States heighten his  
26 interest in being at liberty, in the company of his family and community, while his immigration  
27 proceedings continue. *See id.* ¶ 41; Exhs. M–Q (letters of support from Mr. Flores Jimenez’s  
28 family members and community).

1 128. Importantly, “the weight on this side of the *Mathews* scale” is not “offset” by the  
2 circumstances of Mr. Flores Jimenez’s involvement with the criminal legal system, nor the fact  
3 that he is in removal proceedings. *Hamdi v. Rumsfeld*, 542 U.S. 507, 530 (2004) (plurality op.).  
4 This is because “commitment for *any* purpose constitutes a significant deprivation of liberty that  
5 requires due process protection, and at this stage in the *Mathews* calculus, we consider the  
6 interest of the *erroneously* detained individual.” *Id.* (emphasis in original) (internal citations and  
7 quotation marks omitted).

8 129. **Second**, the risk of erroneous deprivation and the probable value of additional procedural  
9 safeguards also weigh heavily in Mr. Flores Jimenez’s favor. “[T]he risk of an erroneous  
10 deprivation of liberty in the absence of a hearing before a neutral decisionmaker is substantial.”  
11 *Diouf II*, 634 F.3d at 1092. The risk that Mr. Flores Jimenez has been erroneously deprived of  
12 his liberty is significantly high because he has been detained for over 27 months without any  
13 individualized inquiry into whether the government can justify his detention based on the  
14 current risk of flight or danger. *See Zadvydas* at 690 (permissible purposes for immigration  
15 detention are risk of flight or danger to the community). Conversely, “the probable value of  
16 additional procedural safeguards—an individualized evaluation of the justification for his  
17 detention—is high, because Respondents have provided virtually no procedural safeguards at  
18 all.” *Jimenez*, 2020 WL 510347, at \*3 (granting habeas petition for person who had been  
19 detained for one year without a bond hearing); *see also Perera*, 2021 WL 2400981, at \*4  
20 (“[T]he value of providing Perera with a hearing is high.”). Moreover, “[t]hat there is no  
21 remotely certain end in sight to [Mr. Flores Jimenez’s] custody only raises the risk of erroneous  
22 deprivation.” *Id.*

23 130. Furthermore, the IJ herself found that Mr. Flores Jimenez’s equities have increased  
24 during his time in detention such that her rationale for originally finding him a danger to the  
25 community, i.e., his risk of relapsing, is diminished. *See* Exh. I at 42–43 (finding that Mr.  
26 Flores Jimenez “has been sober for an extended period of time, has been receiving treatment for  
27 depression, understands the negative consequences that come from using alcohol and illegal  
28 drugs to self-medicate, and is willing and eager to receive support and help from . . . his family

1 and other services”). Thus, “there is value in an additional bond hearing after almost three years  
2 of detention with new developments regarding [Mr. Flores Jimenez’s] rehabilitation efforts.”

3 *Eliazar G.C.*, No. 1:24-CV-01032-EPG-HC, 2025 WL 711190, at \*7.

4 131. **Third**, the Government’s interest in continuing to detain Petitioner without any  
5 individualized hearing is very weak. The government’s interest at stake here is not its ability to  
6 continue to detain Mr. Flores Jimenez, but rather its ability to continue to detain him for longer  
7 than *33 months without any individualized review*. See e.g., *Carballo*, No. 1:25-CV-00978-  
8 KES-EPG (HC), 2025 WL 2381464, at \*8 (“[T]he government’s interest in detaining petitioner  
9 without a hearing is “low.”) (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal.  
10 2019); *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 964 (N.D. Cal. 2019) (same); *Lopez*  
11 *Reyez v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019) (same); *Singh v. Barr*, 400 F. Supp.  
12 3d 1005, 1021 (N.D. Cal. 2019) (same).

13 132. The cost of providing an individualized inquiry is also minimal where “[r]equiring the  
14 government to provide [Mr. Flores Jimenez] with a bond hearing does not meaningfully  
15 undermine the government’s interest in detaining non-citizens who pose a danger to the  
16 community or are a flight risk.” *Sho*, No. 1:21-CV-01812 TLN AC, 2023 WL 4014649, at \*4.

17 133. In any event, it is “always in the public interest to prevent the violation of a party’s  
18 constitutional rights.” See *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting  
19 *Sammartano v. First Judicial Dist. Court*, 303 F.3d 959, 974 (9th Cir. 2002)); cf. *Doe v. Kelly*,  
20 878 F.3d 710, 718 (9th Cir. 2017) (“[T]he ‘government suffers no harm from an injunction that  
21 merely ends unconstitutional practices and/or ensures that constitutional standards are  
22 implemented.”) (quoting *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013)).

23 134. Applying these standards, courts in this district and circuit have repeatedly held that  
24 continued detention violates procedural due process for individuals who were held under the  
25 same detention statute, and for similar or less time, than Mr. Flores Jimenez. See, e.g., *Lopez*,  
26 631 F. Supp. 3d at 880 (holding the petitioner’s detention of one year under 1226(c)  
27 unreasonably prolonged); *Sho*, No. 1:21-CV-01812 TLN AC, 2023 WL 4014649, at \*4 (finding  
28 the petitioner’s interest in receiving an individualized bond hearing “heightened” in light of his

1 28 months in detention”). This Court should hold so, as well.

2 135. *Rodriguez Diaz v. Garland* does not disturb this result. In *Rodriguez Diaz*, the Ninth  
3 Circuit applied the *Mathews* test to hold that the detention of a noncitizen detained under a  
4 different detention statute, Section 1226(a), did not violate procedural due process. 53 F.4th at  
5 1203. Unlike Section 1226(c), Section 1226(a) mandates that detained individuals receive an  
6 individualized bond hearing at the outset of detention and guarantees further bond hearings upon  
7 a material change in circumstances. *See* 8 C.F.R. § 1236.1; 1003.19(e). The panel’s decision in  
8 *Rodriguez Diaz*—and its evaluation of the underlying *Mathews* factors—was predicated on the  
9 immediate and ongoing availability of this administrative process under Section 1226(a). *See*  
10 *Rodriguez Diaz*, 53 F.4th at 1202 (“Section 1226(a) and its implementing regulations provide  
11 extensive procedural protections that are unavailable under other detention provisions, including  
12 several layers of review of the agency’s initial custody determination, an initial bond hearing  
13 before a neutral decisionmaker, the opportunity to be represented by counsel and to present  
14 evidence, the right to appeal, and the right to seek a new hearing when circumstances materially  
15 change”); *see also id.* at 1207, 1209 (initial bond hearing and availability of future bond  
16 hearings reduced petitioner’s private interest, sufficiently protected his liberty interest, and  
17 sufficiently mitigated risk of erroneous deprivation).

18 136. Since *Rodriguez Diaz*, courts in this Circuit have found that the analysis in that case does  
19 not preclude the claim that procedural due process requires a bond hearing for those detained  
20 under Section 1226(c). *See Singh*, No. 1:23-CV-01043-EPG-HC, 2023 WL 5836048, at \*5  
21 (noting that post *Rodriguez Diaz*, “*Mathews* remains a flexible test that can and must account  
22 for the heightened governmental interest in the immigration detention context”); *Hogarth v.*  
23 *Giles*, No. 5:22-cv-01809, Dkt. 20 at \*16-17 (C.D. Cal. Jan. 11, 2023) (“[T]he analysis for [this]  
24 *Mathews* factor here differs greatly from that of the Ninth Circuit in *Rodriguez Diaz*, primarily  
25 due to the fact that Section 1226(c) provides no opportunity for any further bond determinations  
26 for the duration of Petitioner’s detention . . . It cannot be that due process authorizes infinite  
27 detention without any opportunity for reconsideration.”), *report and recommendation adopted in*  
28 *relevant part*, Dkt. 24 (C.D. Cal. Feb. 23, 2023); *see also Pham v. Becerra*, No. 23-cv-01288-

1 CRB, 2023 WL 2744397 (N.D. Cal. Mar. 31, 2023) (granting petition and ordering  
2 individualized hearing for petitioner subject to prolonged detention under Section 1226(c) after  
3 *Rodriguez Diaz*).

4 3. The factors discussed in *German Santos* also favor Mr. Flores Jimenez.

5 137. To the extent the Court considers the factors discussed by the Third Circuit in *German*  
6 *Santos*, i.e., length of time the noncitizen has been detained, the likelihood of continued pro-  
7 longed detention, and the conditions of confinement, those factors also weigh in favor of Mr.  
8 Flores Jimenez and his entitlement to an individualized custody evaluation.

9 138. Under that framework, the duration of detention is “[t]he most important factor,” *German*  
10 *Santos*, 965 F.3d at 211. Here, the more than 33 months Mr. Flores Jimenez has been detained  
11 is well beyond the six months to one year that most courts find presumptively unconstitutional  
12 absent a hearing. *See Lopez*, 631 F. Supp. 3d at 880; *see also Abdul-Samed*, No. 1:25-CV-  
13 00098-SAB-HC, 2025 WL 2099343, at \*8. Where a habeas petitioner had been detained for  
14 “just over a year,” (less than the 33 months Mr. Flores Jimenez has been detained), the court  
15 found that this factor “weigh[ed] strongly in his favor.” *Gonzalez*, 2019 WL 330906, at \*5  
16 (emphasis added); *see also supra* at ¶ 119 (citing cases with similar durations of detention where  
17 a procedural due process violation was found). In short, this factor weighs decidedly in Mr.  
18 Flores Jimenez’s favor.

19 139. The three other *German Santos* factors also weigh in Flores Jimenez’s favor: First,  
20 detention is likely to continue for several more months, and possibly over another year. *See*  
21 *supra* ¶ 101; *German Santos*, 965 F.3d at 211 (“When the [noncitizen’s] removal proceedings  
22 are unlikely to end soon, this suggests that continued detention without a bond hearing is  
23 unreasonable.”). Second, looking to the reasons for the delay, Mr. Flores Jimenez cannot be  
24 blamed for his prolonged detention. *See supra* ¶¶ 102–06. To the extent there has been  
25 unnecessary delay in proceeding with his case, that delay is due to the government’s errors. *See*  
26 *German Santos*, 965 F.3d at 211.

27 140. Third, and finally, Mr. Flores Jimenez’s conditions of confinement are equal to or worse  
28 than conditions of criminal confinement. *See supra* at ¶¶ 86–95. This factor weighs decisively

1 in his favor. “The more that the conditions under which the [noncitizen] is being held resemble  
2 penal confinement, the stronger his argument that he is entitled to a bond hearing.” *De Paz*  
3 *Sales v. Barr*, 2019 WL 4751894, at \*6 (N.D. Cal. Sept. 30, 2019) (internal quotation marks  
4 omitted). “And as the length of detention grows, so does the weight that [courts] give this  
5 factor.” *German Santos*, 965 F.3d at 211. Because Mr. Flores Jimenez has been detained for  
6 more than 33 months in prison-like conditions, procedural due process requires an  
7 individualized hearing.

8 **C. This Court Should Hold the Evidentiary Hearing to Which Petitioner Is**  
9 **Entitled.**

10 141. If it finds a procedural due process violation, this Court should hold an evidentiary  
11 hearing to determine whether the government can justify further detention. While previous  
12 petitioners bringing procedural due process challenges to Section 1226(c) detention have  
13 explicitly sought (and received) bond hearings in immigration court, waiting for that additional  
14 process to run its course here would cause additional delay and erect further barriers to the relief  
15 Mr. Flores Jimenez seeks. Thus, this Court should hold the evidentiary custody hearing itself.

16 142. This Court’s habeas power gives it the authority to conduct evidentiary hearings and  
17 release a petitioner to bail. “[T]he federal habeas statute provides for a swift, flexible, and  
18 summary determination of [a petitioner’s] claim.” *Preiser v. Rodriguez*, 411 U.S. 475, 495  
19 (1973). The statute directs district courts to “hear and determine the facts” of a habeas petition  
20 and to “dispose of the matter as law and justice require.” 28 U.S.C. § 2243. Indeed, the federal  
21 habeas statute codifies the common law writ of habeas corpus as it existed in 1789. *See I.N.S. v.*  
22 *St. Cyr*, 533 U.S. 289, 301 (2001) (“At its historical core, the writ of habeas corpus has served as  
23 a means of reviewing the legality of Executive detention, and it is in that context that its  
24 protections have been strongest.”). The common law gave habeas courts power to hold a  
25 hearing and release a habeas petitioner to bail even absent a statute contemplating such release.  
26 *See Wright v. Henkel*, 190 U.S. 40, 63 (1903) (“[T]he Queen’s Bench had, ‘independently of  
27 statute, by the common law, jurisdiction to admit to bail.’” (quoting *Queen v. Spilsbury*, 2 Q. B.  
28 615 (1898)); *see also Mapp v. Reno*, 241 F.3d 221, 223 (2d Cir. 2001) (“We hold that the federal

1 courts have the same inherent authority to admit habeas petitioners to bail in the immigration  
2 context as they do in criminal habeas cases.”).

3 143. District courts regularly exercise this authority in cases involving immigration detention.  
4 *See Leslie v. Holder*, 865 F. Supp. 2d 627, 633 (M.D. Penn. 2012) (“[W]e are empowered to  
5 conduct bail proceedings in habeas corpus proceedings brought by immigration detainees.  
6 Indeed, the authority to conduct such hearing has long been recognized as an essential ancillary  
7 aspect of our federal habeas corpus jurisdiction. . . . [T]here is nothing extraordinary or novel  
8 about this practice of conducting bail hearings in connection with federal immigration habeas  
9 corpus proceedings.”) (collecting cases); *Madrane v. Hogan*, 520 F. Supp. 2d 654, 669-671  
10 (M.D. Pa. 2007) (holding evidentiary hearing and ordering conditional release from  
11 unconstitutional detention); *see also Carballo v. Andrew*, No. 1:25-CV-00978-KES-EPG (HC),  
12 2025 WL 2381464, at \*3 (E.D. Cal. Aug. 15, 2025) (noting the petitioner was previously  
13 released “by the district court in the Northern District of California based on criteria including  
14 that he was not a flight risk and did not pose a danger to the community”).

15 144. Requiring Mr. Flores Jimenez to prevail in this Court and then litigate another  
16 administrative proceeding in his effort to remedy his unconstitutional detention would  
17 undermine the “demand for speed, flexibility, and simplicity” that the federal habeas statute  
18 requires. *Hensley*, 411 U.S. at 350. The Supreme Court has instructed district courts addressing  
19 habeas claims “to cut through barriers of form and procedural mazes” and has “consistently  
20 rejected interpretations of the habeas corpus statute that would suffocate the writ in stifling  
21 formalisms or hobble its effectiveness with the manacles of arcane and scholastic procedural  
22 requirements.” *Id.* (quoting *Harris v. Nelson*, 394 U.S. 286, 291 (1969)). Referring the  
23 procedural safeguard that Mr. Flores Jimenez seeks to an administrative immigration adjudicator  
24 as a separate litigation matter with its own separate appellate process would erect “barriers of  
25 form and procedural mazes,” instead of following the Supreme Court’s instruction to eliminate  
26 them. *See id.*

27 145. By holding the custody hearing itself, this Court can provide a truly “swift” and certain  
28 remedy for a final resolution of Mr. Flores Jimenez’s detention. *See Preiser*, 411 U.S. at 495. It

1 also avoids the possibility that Mr. Flores Jimenez will be forced to return to this Court to  
2 enforce its order after the IJ hearing is conducted, any potential denial is appealed to the BIA,  
3 additional motions for injunctive relief are litigated in this Court, and disagreements over  
4 whether the Court has jurisdiction over post-bond hearing claims are also adjudicated. *See, e.g.,*  
5 *Jimenez v. Wolf*, No. 19-cv-07996-NC, 2020 WL 1082648, \*4 (N.D. Cal. Mar. 6, 2020)  
6 (granting petitioner’s motion for a temporary restraining order and ordering release where the  
7 court had previously ordered an immigration court bond hearing but that hearing did not comply  
8 with due process); *Ramos v. Sessions*, 293 F. Supp. 3d 1021, 1036-38 (N.D. Cal. 2018) (granting  
9 petitioner’s motion to enforce and ordering release). In short, it is the swiftest way to ensure  
10 that, if the government cannot justify further detention, Mr. Flores Jimenez is relieved of further  
11 unnecessary and unconstitutional restrictions on his liberty.

12 **D. At Any Custody Hearing, the Government Must Justify Petitioner’s**  
13 **Continued Detention by Clear and Convincing Evidence.**

14 146. Where a custody hearing is warranted as a procedural safeguard against unreasonably  
15 prolonged detention, the government must bear the burden of justifying continued confinement  
16 by clear and convincing evidence. *Singh v. Holder*, 638 F.3d 1196, 1205 (9th Cir. 2011).  
17 “Because it is improper to ask the individual to share equally with society the risk of error when  
18 the possible injury to the individual—deprivation of liberty—is so significant, a clear and  
19 convincing evidence standard of proof provides the appropriate level of procedural protection.”  
20 *Id.* at 1203–04 (internal citations and quotation marks omitted); *see also Cooper v. Oklahoma*,  
21 517 U.S. 348, 363 (1996) (“[D]ue process places a heightened burden of proof on the State in  
22 civil proceedings in which the ‘individual interests at stake . . . are both particularly important  
23 and more substantial than mere loss of money’”) (citation omitted); *Foucha v. Louisiana*, 504  
24 U.S. 71, 80–81 (1992) (requiring clear and convincing evidence to justify civil commitment  
25 because “[f]reedom from bodily restraint has always been at the core of the liberty protected by  
26 the Due Process Clause.”).

27 147. In line with this principle, courts in this District that have ordered individualized hearings  
28 to remedy prolonged detention under Section 1226(c) have required the government to bear the

1 burden of proving flight risk or danger by clear and convincing evidence. *Rodrigo A. Paz v.*  
2 *Wofford*, No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at \*7 (E.D. Cal. Aug. 21,  
3 2025) (collecting cases placing the burden on the Government to prove danger and flight risk at  
4 the court ordered bond hearing).

5 **CLAIMS FOR RELIEF**

6 **FIRST CLAIM FOR RELIEF**

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

8 148. Mr. Flores Jimenez re-alleges and incorporates by reference the paragraphs above.

9 149. The Due Process Clause of the Fifth Amendment forbids the Government from depriving  
10 any “person” of liberty “without due process of law.” U.S. Const. amend. V.

11 150. The Government has two legitimate interests that may be served by civil immigration  
12 detention: preventing flight from removal proceedings and protecting the community from  
13 danger.

14 151. Due process prohibits the Government from punishing people in civil detention. Due  
15 process requires that the nature and duration of commitment bear some reasonable relation to the  
16 purpose for which the individual is detained. Civil custody that is excessively prolonged in  
17 relation to the Government’s interest is unconstitutionally punitive. When a civil restriction is  
18 excessive in relation to a governmental interest, or the government could accomplish its interests  
19 through less restrictive means, the restriction is unconstitutionally punitive.

20 152. Mr. Flores Jimenez does not pose a danger or a flight risk.

21 153. Mr. Flores Jimenez’s detention is excessive in relation to any legitimate government  
22 interest, which would be amply satisfied by his release on appropriate conditions, and is thus  
23 unconstitutionally punitive. For these reasons, Mr. Flores Jimenez’s ongoing prolonged  
24 detention violates his right to due process.

25 **SECOND CLAIM FOR RELIEF**

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

27 154. Mr. Flores Jimenez re-alleges and incorporates by reference the paragraphs above.

28 155. The Due Process Clause of the Fifth Amendment forbids the Government from depriving

1 any “person” of liberty “without due process of law.” U.S. Const. amend. V.

2 156. Mr. Flores Jimenez’s detention has become prolonged as he has been detained for more  
3 than 33 months and faces months, if not years, of continued detention while his petition for  
4 review is adjudicated and potentially remanded to the agency for further proceedings.

5 157. Mr. Flores Jimenez’s ongoing prolonged detention without an individualized bail hearing  
6 at which the Government has established clear and convincing evidence of flight risk or danger  
7 (in consideration of alternatives to detention) violates his due process rights.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner respectfully requests that this Court:

10 1) Assume jurisdiction over this matter;

11 2) Declare that Mr. Flores Jimenez’s ongoing prolonged detention violates the Due Process  
12 Clause of the Fifth Amendment;

13 3) Issue a Writ of Habeas Corpus and order Respondents to immediately release Mr. Flores  
14 Jimenez from DHS’s physical custody.

15 4) In the alternative, hear and determine the facts, as described in 28 U.S.C. § 2243, at a  
16 prompt bail hearing before this Court, evaluate Mr. Flores Jimenez’s ability to pay in setting  
17 bond, and consider alternative conditions of release;

18 5) Enjoin Respondents from causing Mr. Flores Jimenez any greater harm during the  
19 pendency of this litigation and immigration court case, such as by transferring him away from  
20 his counsel;

21 6) Award Petitioner reasonable attorneys’ fees, costs, and other disbursements in this action  
22 permitted under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, and on any other  
23 basis justified under law;

24 7) Grant such further relief as the Court deems just and proper.

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Respectfully submitted on September 16, 2025,

/s/ Brynna Bolt

Brynna Bolt

*Pro Bono Attorney for Petitioner*

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