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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **FRESNO DIVISION**

11
12 **Martin Paul PRIOR,** 

13 Petitioner,

14 v.

15 **Tonya ANDREWS**, Warden or Facility
16 Administrator of Golden State Annex; **Orestes**
17 **Cruz**, Acting Field Office Director for San
18 Francisco Enforcement and Removal
19 Operations, Immigration and Customs
20 Enforcement; **David Salazar**, Field Operations
21 Director for San Francisco Customs and Border
22 Protection, Immigration and Customs
23 Enforcement; **Todd LYONS**, Acting Director
of United States Immigration and Customs
Enforcement; **Kristi NOEM**, Secretary of the
United States Department of Homeland
Security, **Pamela BONDI**, Attorney General of
the United States, in their official capacities,

24 Respondents.

Case No. 25-769

**PETITION FOR WRIT OF
HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

INTRODUCTION

1
2 1. Petitioner, Martin Paul Prior, is a 56-year-old native and citizen of the United
3 Kingdom and lawful permanent resident (“LPR”) in the United States. He obtained LPR status
4 over 30 years ago, on May 28, 1993. Exhibit (“Exh.”) A (Immigration Judge Decision). In
5 February 2020, the Department of Homeland Security (“DHS”) initiated removal proceedings
6 against Petitioner based on charges that Petitioner is inadmissible to the United States due to
7 convictions sustained in 2013 and 2014. *Id.* In removal proceedings, Petitioner applied for
8 cancellation of removal for certain lawful permanent residents, which an immigration judge (“IJ”)
9 granted in April 2025. *Id.* The DHS appealed that IJ decision to the Board of Immigration Appeals
10 (“BIA” or “Board”), where it remains pending. Exh. B (Counsel’s Declaration).

11 2. Between the DHS’s initiation of removable proceedings in February 2020 to
12 Petitioner being taken into immigration custody on February 22, 2025, Petitioner traveled to and
13 from the United States to visit his mother in Ireland multiple times. Exh. B. He was detained by
14 Customs and Border Protect (“CBP”) on February 22, 2025, when he entered the United States at
15 the San Francisco International Airport. *Id.*

16 3. Petitioner has now been detained in immigration custody for over six months, from
17 February 22, 2025, to the present. Exh. B.

18 4. In July 2025, each of the convictions underlying DHS’s charged grounds of
19 inadmissibility were vacated for procedural or substantive defects in their underlying proceeding.
20 Exh. C (Orders Vacating Convictions). Thus, Petitioner is no longer inadmissible as charged.

21 5. On August 29, 2025, Petitioner filed with the BIA a motion to terminate his removal
22 proceedings because he is no longer inadmissible as charged due to the vacatur of his convictions;
23 that motion to terminate also remains pending with the BIA. Exh. B.

24 6. Because Petitioner is not inadmissible, he is not properly subject to mandatory
25 detention, and his continued detention therefore violates the Immigration and Nationality Act
26 (“INA”), the Administrative Procedures Act (“APA”) and Fifth Amendment to the U.S.
27 Constitution. Accordingly, to vindicate Petitioner’s statutory and constitutional rights, this Court
28 should grant the instant petition for a writ of habeas corpus.

1 7. Petitioner has exhausted all reasonable options to try to obtain his liberty, including
2 by repeatedly asking DHS officers for his release from custody after providing DHS with evidence
3 of his vacated convictions that unequivocally show that he is no longer inadmissible as charged or
4 subject to mandatory detention. Absent an order from this Court, Petitioner, a lawful permanent
5 resident, will remain incarcerated in contravention to the law and his constitutional rights, causing
6 him to suffer irreparable injury.

7 8. Petitioner's detention has already caused him substantial harm, including by
8 separating him from his U.S. citizen wife, two U.S. citizen children, and U.S. citizen grandchild,
9 preventing him from providing his wife and daughter – both of whom struggle with substance
10 abuse and addiction issues – direct support in their maintaining sobriety. He is also prevented from
11 providing care for his daughter's infant, his grandchild, during a crucial period in his daughter's
12 addiction recovery. Petitioner's detention also separates him from his family and community
13 whom he relies upon as support in his own journey of maintaining a life of sobriety. Finally,
14 Petitioner's detention prevents him from working in his profession as an electrician, a field in
15 which he has worked full-time for decades, and which allows him to provide for his family
16 financially and serve his community with honest and dependable work.

17 9. The Constitution protects Petitioner – and every other person present in this country
18 – from arbitrary deprivations of his liberty and guarantees his due process of law. The
19 government's power over immigration is broad, but as the Supreme Court has declared, it "is
20 subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).
21 "Freedom from bodily restraint has always been at the core of the liberty protected by the Due
22 Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

23 10. Petitioner respectfully seeks a writ of habeas corpus ordering the government to
24 immediately release him from ongoing, unlawful detention, and prohibiting his re-arrest without a
25 hearing to contest that re-arrest before a neutral decision-maker. In addition, to preserve this
26 Court's jurisdiction, Petitioner also requests that this Court order the government not to transfer
27 him outside of the District, or deport him, for the duration of this proceeding.

1 **JURISDICTION AND VENUE**

2 11. This action arises under the Constitution of the United States and the Immigration
3 and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

4 12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
5 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
6 (Suspension Clause).

7 13. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et.*
8 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
9 § 1651.

10 14. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
11 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained at Golden State Annex
12 located in McFarland, California, which is within this District.

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

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

19 16. Courts have long recognized the significance of the habeas statute in protecting
20 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
21 important writ known to the constitutional law of England, affording as it does a swift and
22 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400
23 (1963) (emphasis added).

24 **PARTIES**

25 17. Petitioner, Martin Paul Prior, is a 56-year-old native and citizen of the United
26 Kingdom and lawful permanent resident of the United States. DHS took Petitioner into
27 immigration custody on February 22, 2025. Petitioner is currently detained in Golden State Annex
28 located in McFarland, California. He is in the custody, and under the direct control, of Respondents

1 and their agents.

2 18. Respondent Tonya Andrews is the Warden or Facility Administrator of Golden
3 State Annex, a private facility run by The GEO Group working under contract with the
4 Government. She is the highest-ranking official at the detention facility where Petitioner is being
5 held. Respondent Andrews is responsible for the overall operations of that facility and is
6 Petitioner's immediate physical custodian. Respondent Andrews is sued in her official capacity.

7 19. Respondent Orestes Cruz is the Acting Field Office Director for San Francisco ICE
8 Enforcement and Removal Operations. In this capacity, he is responsible for the administration of
9 immigration laws and the execution of immigration enforcement and detention policy within ICE's
10 San Francisco Area of Responsibility, including the detention of Petitioner. Respondent Cruz is a
11 legal custodian of Petitioner and has the authority to release him. Respondent Cruz is sued in his
12 official capacity.

13 20. Respondent David Salazar is the Field Operations Director for San Francisco ICE
14 CBP. In this capacity, he is responsible for taking Petitioner into custody. Respondent Salazar is
15 sued in his official capacity.

16 21. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official
17 Performing the Duties of the Director of ICE, he is responsible for the administration and
18 enforcement of the immigration laws of the United States; routinely transacts business in this
19 District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. He
20 is a legal custodian of Petitioner. Respondent Lyons is sued in his official capacity.

21 22. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
22 authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority
23 over and responsibility for the operation and enforcement of the immigration laws; routinely
24 transacts business in this District; and is legally responsible for pursuing any effort to detain and
25 remove Petitioner. She is a legal custodian of Petitioner. Respondent Noem is sued in her official
26 capacity.

27 23. Respondent Pamela Bondi is the Attorney General of the United States and the most
28 senior official at the Department of Justice. In that capacity and through her agents, she is

1 responsible for overseeing the implementation and enforcement of the federal immigration laws.
2 The Attorney General delegates this responsibility to the Executive Office for Immigration
3 Review, which administers the immigration courts and the BIA. She is a legal custodian of
4 Petitioner. Respondent Bondi is sued in her official capacity.

5 EXHAUSTION

6 24. There is no statutory exhaustion requirement in 28 U.S.C § 2241. Further, any
7 requirement for prudential exhaustion should be waived given that the “administrative remedies
8 are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture,
9 irreparable injury will result, or the administrative proceedings would be void.” *Laing v. Ashcroft*,
10 370 F.3d 994, 1000 (9th Cir. 2004) (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688
11 (9th Cir. 1981). Petitioner has already pursued all reasonable options to obtain his liberty by
12 repeatedly contacting DHS counsel with unequivocal evidence that he is no longer inadmissible
13 as charged, that he is not subject to mandatory detention, and by filing a motion to terminate
14 proceedings with the BIA, where it remains pending. DHS’s refusal to acknowledge clear evidence
15 that Petitioner’s continued immigration detention is unlawful is causing Petitioner to suffer
16 irreparable harm. *See infra* at ¶¶ 52-59. Thus, any further exhaustion requirements would be
17 unreasonable.

18 LEGAL BACKGROUND

19 ***A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and*** 20 ***Detention.***

21 25. The Constitution establishes due process rights for “all ‘persons’ within the United
22 States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
23 permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533
24 U.S. at 693). These due process rights are both substantive and procedural.

25 26. First, “[t]he touchstone of due process is protection of the individual against
26 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
27 exercise of power without any reasonable justification in the service of a legitimate government
28 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

1 27. These protections extend to noncitizens facing detention, as “[i]n our society liberty
2 is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United*
3 *States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from imprisonment – from
4 government custody, detention, or other forms of physical restraint – lies at the heart of the liberty
5 that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

6 28. Substantive due process thus requires that all forms of civil detention – including
7 immigration detention – bear a “reasonable relation” to a non-punitive purpose. *See Jackson v.*
8 *Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-
9 punitive purposes for immigration detention: ensuring a noncitizen’s appearance at immigration
10 proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690-92; *see also*
11 *Demore v. Kim*, 538 U.S. 510 at 519-20, 527-28, 31 (2003).

12 29. Where a noncitizen has successfully obtained post-conviction relief and therefore
13 is no longer a criminal alien as defined by the INA, the noncitizen is no longer subject to detention
14 under the provisions of that statute and his prolonged detention becomes “unjustified and arbitrary”
15 and “runs afoul with due process protections.” *See Haji S. v. Barr*, No. CV 18-3493 (PAM/LIB),
16 2019 WL 3238354, at *2-3 (D. Minn. July 18, 2019) (“If [Haji S.] is no longer a criminal alien as
17 defined under the relevant statutes, then he is not subject to detention under those statutes. The
18 vacatur of [Haji S.’s] convictions undermines the basis for [his] detention and removal
19 proceedings. Therefore, [his] prolonged immigration detention is now unjustified and arbitrary.”).

20 30. There is a serious legal question whether the mandatory detention provision can
21 constitutionally be applied to someone who has a “substantial” argument against removability.
22 *See, e.g., Tijani v. Willis*, 430 F.3d 1241, 1248-49 (9th Cir. 2005) (Tashima, J., concurring)
23 (arguing that INA § 236(c) cannot constitutionally be applied to any person who has a “substantial”
24 argument against removability); *see also Gonzalez v. O’Connell*, 355 F.3d 1010, 1019-21 (7th Cir.
25 2004) (recognizing that in *Demore v. Kim* the U.S. Supreme Court decision left open whether the
26 mandatory detention provision of the INA would be constitutional as applied to an individual who
27 raises colorable challenges to deportability).

28 31. Second, the procedural component of the Due Process Clause prohibits the

1 government from imposing even permissible physical restraints without adequate procedural
2 safeguards.

3 32. Generally, “the Constitution requires some kind of a hearing before the State
4 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). “[D]ue
5 process is flexible,” and it “calls for such procedural protections as the particular situation
6 demands.” *Jennings v. Rodriguez*, 583 U.S. 281, 314 (2018) (citing *Morrissey v. Brewer*, 408
7 U.S. 471, 481 (1972)).

8 ***B. State Criminal Convictions Vacated for Procedural or Substantive Defects in their***
9 ***Underlying Proceedings No Longer Have Immigration Consequences***

10 33. Where a state court vacates a conviction on account of a “procedural or substantive
11 defect,” that conviction is “not a ‘conviction’ for immigration purposes.” *See Ballinas-Lucero v.*
12 *Garland*, 44 F.4th 1169, 1178 (9th Cir. 2022) (quoting *Nath v. Gonzales*, 467 F.3d 1185, 1189 (9th
13 Cir. 2006)); *see also Matter of Pickering*, 23 I&N Dec. 621, 624 (BIA 2003) (holding that if a
14 court vacates an alien’s conviction because of a procedural or substantive defect, rather than for
15 reasons solely related to rehabilitation or immigration hardships, the conviction is eliminated for
16 immigration purposes), *rev’d on other grounds, Pickering v. Gonzales*, 465 F.3d 263 (6th Cir.
17 2006).

18 34. In charging a noncitizen in removal proceedings, the DHS carries the burden of
19 proving by “clear, unequivocal and convincing evidence” that a vacated conviction was “quashed
20 solely for rehabilitative reasons or reasons related to his immigration status, i.e., to avoid adverse
21 immigration consequences.” *See Cardoso-Tlaseca v. Gonzales*, 460 F.3d 1102, 1107 n.3 (9th Cir.
22 2006) (internal citations omitted) (emphasis in original); *see also Nath*, 467 F.3d at 1189 (“The
23 record before us does not reveal the reasons for setting aside the conviction. The government has,
24 therefore, failed to carry its burden of proof on the question of the reasons the state set aside the
25 first conviction.”).

26 35. According to the plain text of CPC § 1473.7(a)(1), the statute under which
27 Petitioner’s convictions were vacated, state courts are not permitted to vacate a conviction to
28 alleviate any immigration consequences arising from a conviction or sentence. *See Bent v.*

1 *Garland*, 115 F.4th 934, 940-41 (9th Cir. 2024) (as amended).

2 ***C. The INA Provides the Statutory Authority for Mandatory Detention***

3 36. The rules for mandatory detention are contained in 8 U.S.C. § 1226(c), INA
4 § 236(c), which states that “the Attorney General shall take into custody any alien who” is
5 inadmissibility or deportable under select grounds “when the alien is released.” (emphasis added).

6 37. For an alien to be subject to mandatory detention, they must come within certain
7 grounds of deportability or inadmissibility. *See* 8 U.S.C. § 1226(c)(A)-(D), INA § 236(c)(1)(A)-
8 (D).

9 **FACTUAL ALLEGATIONS**

10 ***A. Background***

11 38. Petitioner is a native and citizen of the United Kingdom and a lawful permanent
12 resident of the United States. Exh. A. He obtained lawful permanent status over 30 years ago, on
13 May 28, 1993. *Id.*

14 39. On February 28, 2020, the DHS initiated removal proceedings against Petitioner by
15 the filing of a Notice to Appear with the San Francisco Immigration Cour, which charged him with
16 being inadmissible to the United States due to three California state convictions sustained in 2013
17 and 2014. Exh. A.

18 40. Between the time DHS initiated immigration proceedings in February 2020 to
19 taking Petitioner into immigration custody in February 2025, Petitioner traveled to and from the
20 United States to visit his mother in Ireland multiple times without issue. Exh. B.

21 41. Between February 2020 and February 2025, Petitioner had no further encounters
22 with law enforcement, he continued to engage in rehabilitation and treatment for substance abuse
23 and addiction issues, he worked full-time as an electrician, and he continued to care for and support
24 his U.S. citizen wife, two U.S. citizen children, and his U.S. citizen grandchild. Exh. A.

25 42. Despite no adverse changes in Petitioner’s circumstances that would alter the
26 calculation that he was no more a flight risk or danger to the community than he had been when
27 the DHS first initiated immigration proceedings against him, Petitioner was detained by CBP on
28 February 22, 2025, at San Francisco International Airport. Exh. B. He was returning from a visit

1 to see his mother in Ireland. *Id.*

2 43. Petitioner has been held in immigration custody from February 22, 2025, to the
3 present. Exh. B. He is currently detained at Golden State Annex located in McFarland, California.
4 *Id.*

5 44. While in immigration removal proceedings, Petitioner applied for cancellation of
6 removal for certain lawful permanent residents, which an immigration judge (“IJ”) granted in April
7 2025. Exh. A.

8 45. The DHS appealed that IJ’s grant of cancellation of removal, which would allow
9 Petitioner to maintain lawful permanent resident status, to the BIA. To date, that BIA appeal
10 remains pending to the BIA, where it remains pending.

11 46. In July 2025, all three of the convictions underlying the DHS’s charges of
12 removability against Petitioner were vacated by state court orders pursuant to California Penal
13 Code § 1473.7(a)(1). Exh. C. Each of these vacatur orders state that the respective conviction was
14 legally invalid due to a prejudicial error damaging Petitioner’s ability to meaningfully understand,
15 defend against, or knowingly accept the actual or potential adverse immigration consequences of
16 a conviction. *Id.*

17 47. On July 23, 2025, undersigned counsel emailed Mr. Long Duong, the DHS Officer
18 for the Office of the Principal Advisor assigned to Petitioner’s case, requesting Petitioner’s release
19 from immigration custody on the basis that he was no longer removable as charged in light of his
20 vacated convictions. Exh. B.

21 48. On August 18, 2025, undersigned counsel sent via FedEx a letter to the ICE Fresno
22 Field Office, requesting that Petitioner be processed for release from immigration custody as he is
23 no longer removable as charged. Exh. B.

24 49. On August 28, 2025, following approximately six email inquiries from undersigned
25 counsel regarding the DHS’s position, Mr. Duong communicated to undersigned counsel that the
26 DHS declined to join in Petitioner’s proposed motion to terminate his removal proceedings. Exh.
27 B.

28 50. On August 29, 2025, Petitioner filed a motion to terminate his removal proceeding

1 with the BIA on the basis that he is longer removable as charged due to his receipt of post-
2 conviction relief, and on the basis that 8 C.F.R. § 1003.1(m)(1)(i)(A) requires the BIA to terminate
3 proceedings where, as here, no charge of removability can be sustained. To date, this motion to
4 terminate remains pending with the BIA. Exh. B.

5 51. To date, no ICE officer has responded to Petitioner's requests for release from
6 immigration custody despite having received evidence of Petitioner's vacated convictions
7 unambiguously demonstrating that he, a lawful permanent resident, is no longer removable as
8 charged, much less subject to mandatory detention. Exh. B.

9 60. Petitioner is being deprived of his liberty without any permissible justification. In
10 addition to not being subject to removal or mandatory detention, Petitioner obviously does not
11 constitute a danger to the community or a flight risk. Petitioner has not had a criminal encounter
12 with the law in over ten years, during which time he has completed intervention and outpatient
13 programs, maintained substance abuse treatment and sobriety, and had his last three convictions
14 vacated for procedural or substantive defects; thus, there is no basis that he poses any public
15 safety risk. Nor is Petitioner, a lawful permanent resident who has resided in the United States
16 for over thirty years, and has a gainful profession as an electrician as well as a U.S. citizen wife,
17 two U.S. citizen children, and a U.S. citizen grandchild depending on him in the United States,
18 conceivably a flight risk.

19 52. Petitioner's continued, unlawful detention and separation from his family and
20 community causes him to suffer ongoing and irreparable harm.

21 53. Petitioner has long struggled with substance abuse and addiction, and these
22 struggles have led to various criminal convictions and probation violations, including the
23 convictions underlying the charges of immigration removability. Exh. A. Petitioner has since
24 proven his rehabilitation through his successful completion of probation, intervention and
25 outpatient programs, and through his maintenance of substance abuse treatment and sobriety for
26 over ten years. *Id.* at 11. Prior to Petitioner's immigration detention, he attended Alcoholics
27 Anonymous ("AA") meetings twice a week, and he recently received his ten-year AA chip. *Id.*
28 Petitioner finds his motivation to stay sober through his love of his life when he is clean and sober,

1 with family and community support around him. *Id.* Petitioner’s continued, unlawful detention
2 causes him to suffer ongoing and irreparable harm by separating him from the key people and
3 communities supporting him stay sober, including his family and his AA community.

4 54. Petitioner’s wife also struggles with substance abuse and addiction, and she credits
5 Petitioner with helping her achieve sobriety, which she has maintained for over nine years. Exh.
6 A at 11. She fears that separation from Petitioner places her at risk of returning to use of alcohol
7 and drugs. *Id.* at 11-12. Petitioner’s continued detention and separation from his wife causes him
8 to suffer ongoing and irreparable harm because it prevents him from directly supporting his wife
9 in maintaining her hard-won sobriety.

10 55. Petitioner’s young adult daughter also struggles with severe substance abuse and
11 addiction, and Petitioner played a key role in helping her towards sobriety and transitioning into
12 stable housing. Exh. A at 13. Prior to his detention, Petitioner also helped care for her daughter,
13 his grandchild. *Id.* The immigration judge noted that as Petitioner’s daughter is “in a critical phase
14 of her life where she is newly sober and raising an infant, and the fact that both [Petitioner’s
15 daughter] and her doctor have credited [Petitioner’s] role in promoting [Petitioner’s daughter’s]
16 health and recover from addition while she take on a new role raising an infant, it would be a
17 particular hardship to [Petitioner’s daughter] and [his] grandchild if he were removed from the
18 United States.” *Id.* at 14. Petitioner’s continued detention and separation from his daughter and
19 grandchild cause him to suffer ongoing and irreparable harm because he is unable to directly
20 support his daughter in maintaining her sobriety or to help her care for her infant daughter during
21 a critical phase.

22 56. Petitioner’s ex-wife also relies on Petitioner as a trusted and respected co-parent
23 and friend, noting that he helps her through health challenges, including by offering to support her
24 as she went through chemotherapy for cancer treatment. Exh. A at 12. Petitioner’s continued
25 detention and separation from his ex-wife causes him to suffer ongoing and irreparable harm
26 because it prevents him from directly supporting his ex-wife in co-parenting and in aiding her in
27 health-related challenges.

28 57. Prior to his detention, Petitioner worked full-time for decades as an electrician, and

1 his clients found him to be honest and dependable. Exh. A. at 12-13. Petitioner's continued
2 detention also causes him to suffer ongoing and irreparable harm because it prevents him from
3 maintaining a livelihood that allows him the resources to care for his family. Further, his prolonged
4 absence from the profession could potentially damage his client's perception of his dependability
5 and trustworthiness.

6 58. Despite being in receipt of material evidence establishing that Petitioner is no
7 longer removable as charged – much less subject to mandatory detention – DHS has continued to
8 deprive Petitioner of his liberty with legal authority to continue to do so.

9 59. For the foregoing reasons, Petitioner's continued and unlawful detention will cause
10 him to continue to suffer irreparable harm.

11 **CLAIMS FOR RELIEF**

12 **FIRST CLAIM FOR RELIEF**

13 **Violation of Immigration and Nationality Act**

14 1. Petitioner repeats and re-alleges the allegations contained in the preceding
15 paragraphs of this Petition as if fully set forth herein.

16 2. Because Petitioner is no longer subject to mandatory detention under 8 U.S.C.
17 § 1226(c), his continued detention under this provision violates the Immigration and Nationality
18 Act.

19 **SECOND CLAIM FOR RELIEF**

20 **Violation of Administrative Procedures Act**

21 3. Petitioner repeats and re-alleges the allegations contained in the preceding
22 paragraphs of this Petition as if fully set forth herein.

23 4. By continuing Petitioner's immigration detention despite being receipt of
24 unambiguous evidence that he is no longer subject to mandatory detention or removal in light of
25 his vacated convictions, Respondents have acted in an arbitrary and capricious manner, in violation
26 of the Administrative Procedure Act, 5 U.S.C. § 701, *et seq.*

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THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

5. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

6. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

7. Immigration detention is constitutionally permissible only when it furthers the government’s legitimate goals of ensuring the noncitizen’s appearance during removal proceedings and preventing danger to the community. *See id.*

8. Petitioner is no longer subject to mandatory detention, and he is no longer removable, as all of his predicate criminal convictions have been vacated. Respondent’s continued detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

9. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons.”

FOURTH CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

10. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

11. “In the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government’s asserted justification for physical

1 confinement outweighs the individual's constitutionally protected interest in avoiding physical
2 restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494 U.S. at 127 (Generally, “the
3 Constitution requires some kind of a hearing before the State deprives a person of liberty or
4 property.”). In the immigration context, for such hearings to comply with due process, the
5 government must bear the burden to demonstrate, by clear and convincing evidence, that the
6 noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196,
7 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

8 12. Respondents have provided no justification for Petitioner’s continued detention
9 despite having unambiguous evidence that Petitioner is no longer removable and therefore not
10 subject to mandatory detention, which violates his liberty interest.

11 13. Petitioner has a profound personal interest in his liberty. Because he received no
12 procedural protections, the risk of erroneous deprivation is high, and the government has no
13 legitimate interest in continuing to detain Petitioner, a lawful permanent resident.

14 **PRAYER FOR RELIEF**

15 Petitioner respectfully requests that this Court:

- 16 1. Assume jurisdiction over this matter;
- 17 2. Issue a writ of habeas corpus ordering Respondents to immediately release
18 Petitioner from custody;
- 19 3. Declare that Petitioner’s continued detention violates the INA;
- 20 4. Declare that Petitioner’s continued detention violates the APA;
- 21 5. Declare that Petitioner’s continued detention violates the Due Process Clause of the
22 Fifth Amendment;
- 23 6. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered
24 at a custody hearing before a neutral arbiter in which the government bears the
25 burden of proving, by clear and convincing evidence, that he is a flight risk or
26 danger to the community;
- 27 7. Enjoin Respondents from transferring Petitioner outside this District or deporting
28 Petitioner pending these proceedings;

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8. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
9. Grant such further relief as the Court deems just and proper.

Date: September 5, 2025

Respectfully Submitted,

/s/ James M. Byrne

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