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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA
BY _____ DEPUTY

Name: Jose David Lainez Bueso
1623 EAST J STREET SUITE FIVE
TACOMA, WASHINGTON 98421

UNITED STATES DISTRICT COURT

IN AND FOR THE WESTERN DISTRICT OF WASHINGTON

2:25-CV-1748 KKE-MLP

Name : Jose David Lainez Bueso

) Case No.: 25-1989

) A# 

Petitioner

) Petition for Writ of Habeas Corpus Under 28

vs.

) USC § 2241 & Motion for Injunctive Relief Tem-

ICE Field Office Director

) porary Restraining Order Pursuant to Fed. R

Respondent


) Civ. P. Rule 65

The Petitioner is currently held in custody of the Attorney General at Tacoma's Northwest ICE Processing Center in Tacoma Washington.


Here, the Petitioner Pro Se, moves this Court to issue an order commanding his release from the custody of ICE or hold a bond hearing in front of a neutral adjudicator for the fact that such custody violates the Due Process Clause of the fifth amendment.

FACTS

1. On the date of 02/23/2024 the Petitioner entered into Moshannon Valley ICE Processing Center Custody in Phillipsburg, Pennsylvania. (See Exhibit A: Alien's Identification Report three (3) pages)
2. The Petitioner was in Moshannon Valley ICE Processing Center Custody for a period of 11 months and four days, since 02/23/2024 to 02/04/2025.

- 1 3. The Petitioner was transferred from Moshannon Valley ICE Processing Center In Pennsylvania
2 to Northwest ICE Processing Center in Tacoma, WA. for a period of four (4) months 3 days
3 On 02/04/2025 to 06/07/2025.
- 4 4. On 06/07/2025 The Petitioner was transferred again from Northwest ICE Processing Center to
5 Anchorage Department Corrections in the State of Alaska for a Period of 24 days till
6 06/30/2025 without previous notification violated again his constitutional rights of liberty
7 sending him to a Federal Prison suffering serious physical and psychological damage. (See
8 **Exhibit B: Anchorage Correctional Complex East. State of Alaska Report six (7)**
9 **pages**)
- 10 5. On 06/30/2025 The Petitioner was moved one more time from Anchorage Department Correc-
11 tions in the State of Alaska to Northwest ICE Processing Center in Tacoma, WA. To this
12 present day.
- 13 6. This Petitioner has been within the confines of the United States Bureau of Immigration and
14 Customs Enforcement for the ongoing period of more than 18 months and has not been re-
15 leased since Petitioner entered in Custody on 02/23/2024.
- 16 7. The current charges of deportation is: Order of Removal entered on 10/01/2024.
- 17 8. The continued detention of the petitioner for the ongoing period of 18 months has become pro-
18 longed and unreasonable. Petitioner's liberty interest is high, given that he was denied
19 for release in a bond redetermination hearing last 08/13/2025 by the Judge: Theresa
20 Scala in this center (NWIPC) without take into consideration the following clear and
21 convincing bond evidence presented during the hearing on behalf of the Petitioner: **(a)**
22 **Petitioner has been detained for the ongoing period of 18 months, showing a good**
23 **behavior during all this time b) Petitioner arrived into the United States in Legal**
24 **Condition: with B-2 Tourist Visa and C1-D Work Visa with Passport No.**
25  **(See Exhibit C: Entries into USA Report six (6) pages)**

1 **c) Petitioner has filed a U-Visa into Department of Homeland Security U.S. Citi-**
2 **zen and Immigration Services (USCIS) due he was subject of Aggravated Assault,**
3 **Robbery, and Restraining Kidnapping; being stolen from his Passport including**
4 **the two Visas above described in Charlotte NC.(See Exhibit D: Form I-918 eleven**
5 **(11) pages and the Police Report three (3) pages) d) The Judge denied the Petitioner**
6 **the Bond Release because she argument the Petitioner is a risk to the community and a**
7 **flight risk, as you can see the Petitioner doesn't have aggravated Criminal Records**
8 **Pursuant to 8 U.S.C.S § 1231(a)(6) and petitioner is not a risk to the community nor a flight**
9 **risk, this Petitioner only has been in jail for a maximum period of four months during all his**
10 **life, he doesn't even have criminal records in his native country (See Exhibit E: Crim-**
11 **inal Records Report sixteen (16) pages) d) Petitioner has gotten in these center**
12 **several and serious Illnesses described in the Medical Records, Illnesses that need**
13 **to be treated urgently outside in a hospital (See Exhibit F: Medical Records Re-**
14 **port, three (3) pages)**

15 **9. Petitioner Jose David Lainez Bueso, was born on , and native from Honduras C.A.**
16 **who entered in the United States in legal conditions on 08/10/2019. through B-2 Tourist Visa**
17 **at Fort Lauderdale, Florida as Port of Entry. this Petitioner is seeking for relief of Asylum**
18 **and/or Withholding Removal and/or Convention against Torture since 02/23/2024, this Peti-**
19 **tioner also has and hold strong community and family ties. (See Exhibit G: Sponsors sup-**
20 **port letters, seven (7) pages)**

21 **10. The Zadvydas opinion opened by noting the clear applicability of general due process stan-**
22 **dards: physical detention requires both a "special justification" that "outweighs the 'individual's**
23 **constitutionally protected interest in avoiding physical restraint'" and "adequate procedural pro-**
24 **tections." 533 US, at 690, 150. L. Ed 2d 653, 121 S. Ct 2491 (quoting *Hendricks* at 356, 138 L**
25 **Ed 2d 501, 117 S Ct 2072).**

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JURISDICTION

2.1. The Jurisdiction of this Court is sought under 28 USC 2241, because Petitioner's civil detention is being executed in a manner that exceeds lawful detention and violates the Constitution and laws of the United states.

2.2. This Court also has jurisdiction over this action pursuant to the constitutional writ of habeas corpus and Court's ancillary jurisdiction over management of its proceedings, vindication of its authority, and effectuation of its decrees. Boumediene v. Bush, 553 U.S. 723, 729 (2008); Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375, 379-80 (1994)

2.3. Petitioner invokes the jurisdiction of this Court pursuant to 28 U.S.C § 1331 because the action arises out of the U.S Constitution and seeks corrective action by officers and employees of the United States in their official capacity

2.4. Petitioner invokes the jurisdiction of this Court pursuant to 28 U.S.C. §1343(a)(4) because they seeks to redress the deprivation of their rights guaranteed by the United States Constitution and Laws thereof.

2.5 Under Fed. R. Civ .P. Rule 65, this Court have Jurisdiction to issue TRO (Temporary Restraining Order).

QUESTION PRESENTED

1. Is the Petitioner entitled to release from the Attorney General?
2. Is alternative relief in the form of release on conditions appropriate or release on bond that is reasonable?

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3 **RELIEF REQUESTED**

4 That the Court Order the Petitioner to be released from detention or Respondent to hold an indi-
5 vidualized bond hearing in front of a neutral adjudicator, due his continued detention without bond hear-
6 ing has become prolonged and unreasonable.

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8 **Due Process Clause**

9 The fifth amendment provides that “[n]o person shall...be deprived of life, liberty, or property,
10 without due process of law.” U.S. const. Amend. V. “freedom from imprisonment-from government cus-
11 tody, detention, or other forms of physical restraint-lies at the heart of the liberty’ that the Due Process
12 Clause protects. Zadyvas v. Davis, 553 U.S. 678, 690. 121 S. Ct. 2491 150 L. Ed 2d 653 (2001). This pro-
13 tection applies to “all persons’ within the United States, including aliens, whether their presence here is
14 lawful, unlawful, temporary, or permanent.” id at 693. “It is well established that the fifth amendment en-
15 titles aliens to due process of law in deportation proceedings.” Demore, 538 U.S. at 523 (quoting Reno v.
16 Flores, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed 2d 1 (1993)).

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19 **IMMIGRATION DETENTION STATUTES AND BOND HEARINGS**

20 Congress has enacted a complex statutory scheme governing the detention of non-citizens. “Non-citizens
21 in the United States are removable if they fall within any of several statutory classes of remov-
22 able individuals, one of which is non-citizens convicted of certain enumerated criminal of-
23 fenses.” Avilez v. Garland, 69 F.4th 525, 529 (9th Cir. 2023) (citing 8 U.S.C. § 1227(a)). “Four
24 statutes grant the Government authority to detain non-citizens who have been placed in removal
25 proceedings: 8 U.S.C. §§ 1225(b) (‘Section 1225(b)’), 1226(a) (‘Subsection A’), 1226 (c) (‘Sub-

1 section C'), and 1231(a) ('Section 1231(a)'). A non-citizen's place "within this statutory scheme
2 can affect whether his detention is mandatory or discretionary, as well as the kind of review
3 process available to him if he wishes to contest the necessity of his detention." Prieto-Romero v.
4 Clark, 534 F.3d 1053, 1057 (9th Cir. 2008).

5 Section 1226(a) authorizes DHS to arrest and either detain or release on bond non-citizens
6 "pending removal proceedings," except as provided in § 1226(c). 8 U.S.C. § 1226(a); Jennings v.
7 Rodriguez, 538 U.S. 281, 303-04 (2018). When a non-citizen is arrested and taken into immigra-
8 tion custody pursuant to § 1226(a), ICE makes an initial custody determination, including the
9 setting of bond. See 8 C.F.R. § 236.1(c)(8).

10 Section 1226(c) states that DHS "shall take into custody any [non-citizen]' who falls into
11 one of the enumerated categories involving criminal offenses and terrorist activities." Jennings,
12 583 U.S. at 303 (quoting § 1226(c)(1)) (emphasis added). DHS "may release" such a non-citizen
13 "only if DHS decides that doing so is necessary for witness-protection purposes and the non-citi-
14 zen will not pose a danger or flight risk.

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16 Nevertheless, all these immigration detention statutes are to be in accordance with the U.S.
17 Constitution, most relevant here is the Due Process Clause of the fifth amendment of the U.S.
18 constitution which applies to non-citizens in removal proceedings. The fifth amendment provides
19 that "[n]o person shall....be deprived of life, liberty, or property, without due process of law." U.S. const.
20 Amend. V. "freedom from imprisonment-from government custody, detention, or other forms of physical
21 restraint-lies at the heart of the liberty' that the Due Process Clause protects. Zadyvas v. Davis, 553 U.S.
22 678, 690. 121 S. Ct. 2491 150 L. Ed 2d 653 (2001). This protection applies to "all persons' within the
23 United States, including aliens, whether their presence here is lawful, unlawful, temporary, or perma-
24 nent." *id* at 693. "It is well established that the fifth amendment entitles aliens to due process of law in de-

1 portation proceedings.” Demore, 538 U.S. at 523 (quoting Reno v. Flores, 507 U.S. 292, 306, 113 S. Ct.
2 1439, 123 L. Ed 2d 1 (1993)).

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4 The INA governs the detention and release of non-citizens during and following their re-
5 moval proceedings. See Johnson v. Guzman Chavez, 141 S. Ct. 2271, 2280 (2021). The general
6 detention periods are generally referred to as “pre-order” (meaning before entry of a final of re-
7 moval) and, “post-order” (meaning after the entry of a final order of removal). Compare 8 USC §
8 1226 (authorizing pre-order detention) with § 1231(a) (authorizing post-order detention). Al-
9 though the relevant statutory sections refers to the “Attorney General” as having responsibility
10 for detaining non-citizens, the Homeland Security Act of 2002, Pub. L. No 107-296 § 441(2),
11 116 Stat. 2135, 2192 (2002), transferred this authority to the Secretary of the Department of
12 Homeland Security (“DHS”). See also 6 USC §251.

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14 In Zadvydas v. Davis, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2D 653 (2001), the Supreme
15 Court addressed a challenge to prolonged detention under § 1231(a)(6) by non-citizens who “had
16 been ordered removed by the government and all administrative and judicial review was ex-
17 hausted, but their removal could not be effectuated because their designated countries either re-
18 fused {2023 U.S. Dist. LEXIS 7} to accept them or the United States lacked a repatriation treaty
19 with the receiving country.” Prieto-Romero, 534 F.3d at 1062 (citing Zavydas, 533 U.S. at 684-
20 86). The Supreme Court held that § 1231(a)(6) does not authorize indefinite detention and “lim-
21 its an alien’s post-removal-period detention to a period reasonably necessary to bring about that
22 alien’s removal from the United States.” Zadvydas, 533 U.S. at 689. Thus, after a presumptively
23 reasonable detention period of six months, a non-citizen was entitled to release if “it has been de-
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1 terminated that there is no significant likelihood of removal in the reasonably foreseeable future.”
2 id. At 701.

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4 In Demore v. Kim, 538 U.S. 510, 123 S. Ct. 1708, 155 L. Ed. 2d. 724 (2003), the Supreme
5 Court rejected a facial challenge to mandatory detention under 8 U.S.C. § 1226(c). The Supreme
6 Court upheld its “longstanding view that the Government may constitutionally detain deportable
7 aliens during the limited period necessary for their removal proceedings.” id at 526. The
8 Supreme Court distinguished Zavydas by emphasizing that mandatory detention under § 1226(c)
9 has “a definite termination point” and “in the majority of cases it lasts for less than the 90 days...
10 considered presumptively valid in Zadvydas.” id at 529. However, Justice Kennedy specifically
11 noted that “a lawful permanent resident alien such as respondent could be entitled to an individu-
12 alized determination{2023 U.S. Dist. LEXIS 8} as to his risk of flight and dangerousness if the
13 continued detention became unreasonable or unjustified.” Demore, 538 U.S. at 532 (Kennedy, J.,
14 concurring).

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17 “In series of decisions, the [Ninth Circuit]... grappled in piece-meal fashion with whether the
18 various immigration detention statutes may authorize indefinite or prolonged detention and, if so,
19 may do so without providing a bond hearing.” Rodriguez v. Hayes (Rodriguez I), 591 F.3d 1105,
20 1114 (9th Cir. 2010). This culminated in Rodriguez v. Robbins (Rodriguez III), 804 F.3d at 1089
21 (quoting Diouf v. Napolitano (Diouf II), 634 F.3d 1081, 1091 (9th Cir. 2011)). Importantly the
22 Ninth Circuit applied the canon of constitutional avoidance to interpret these immigration deten-
23 tion provisions as providing a statutory right to a bond hearing once detention become pro-
24 longed. See Rodriguez Diaz v. Garland, 53 F.4th 1189, 1195 (9th Cir. 2022).

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2 In Jennings v. Rodriguez, 138 S. Ct. 830, 200 L. Ed. 2D 122 (2018), the Supreme Court found
3 the Ninth Circuit's interpretation that § 1226(c) included "an implicit 6-month time limit on the
4 length of mandatory detention" fell "far short of a 'plausible statutory construction,'" and held
5 that the Ninth Circuit misapplied the constitutional avoidance canon to find a statutory {2023
6 U.S. Dist. Lexis 9} right under 8 U.S.C. § 1226(a) to "periodic bond hearings every six months
7 in which the Attorney General must prove by clear and convincing evidence that the alien's con-
8 tinued detention is necessary." Jennings, 138 S. Ct. at 846, 842, 847-48. The case was remanded
9 to the Ninth Circuit "to consider [the] constitutional arguments on their merits." *id.* At 851. The
10 Ninth Circuit likewise remanded the case to the district court to consider the constitutional argu-
11 ments in the first instance but observed that it had "grave doubts that any statute that allows for
12 arbitrary prolonged detention without any process is constitutional or that those who founded our
13 democracy precisely to protect against the arbitrary deprivation of liberty would have thought
14 so." Rodriguez v. Marin, 909 F.3d 252, 255, 256 (9th Cir. 2018).

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17 There has been "a dearth of guidance regarding the point at which an individual's continued
18 mandatory detention under Section 1226(c) becomes unconstitutional." Gonzalez v. Bonnar, No.
19 18-cv-05321-JSC, 2019 U.S. Dist. LEXIS 12636, 2019 WL 330906, at *3 (N.D. Cal. Jan. 25,
20 2019). See Rodriguez Diaz, 53 F.4th at 1201, 1203 (observing that "it remains undetermined
21 whether the Due Process Clause requires additional bond procedures under any immigration de-
22 tention statute," and noting that both the Ninth Circuit "and the Supreme Court have repeatedly
23 declined to decide constitutional challenges to bond hearing procedures in the immigration de-
24 tention context"). The Ninth Circuit has yet to take {2023 U.S. Dist LEXIS 10} a position on
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1 whether due process requires a bond hearing for non citizens detained under 8 U.S.C. § 1226(c),
2 but it has recognized that “district courts throughout this circuit have ordered immigration courts
3 to conduct bond hearings for non-citizens held for prolonged periods under § 1226(c)” based on
4 due process and noted that “[a]ccording to one such court order, the ‘prolonged mandatory de-
5 tention pending removal proceedings, without a bond hearing, will-at some point-violate the
6 right to due process.” Matinez v. Clark, 36 F.4th 1219, 1223 (9th Cir. 2022) (citation omitted).

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8 In Rodriguez Diaz, the Ninth Circuit “assume[d]” that fourteen months of detention without
9 bond hearing “qualifies as ‘prolonged’ in a general sense.” 53 F.4th at 1207. “In general, ‘[a]s
10 detention continues past a year, Courts become extremely wary of permitting continued custody
11 absent a bond hearing.” Gonzalez, 2019 U.S. Dist. LEXIS 12636, 2019 WL 330906, at *3 (al-
12 teration in original) (quoting Muse, 409 F. Supp. 3d at 716).

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16 There are some courts including this Court that applies the three part test set forth in Math-
17 ews v. Eldridge, 424 U.S 319,96 S. Ct. 893, 47 L. Ed. 2D 18 {1976}. see zagal-Acaraz v. Ice
18 Field Office Dir, No.3:19-cv-01358-SB, 2020 U.S. Dist. LEXIS 64994,2020 WL 1862254, at *3-
19 4{D. OR. Mar 25, 2020} {collecting cases} report and recommendation adopted, 2020 U.S. Dist.
20 LEXIS 64337, 2020 WL 1855189 {D. Or Apr. 13, 2020}. In Rodriguez Diaz,4 which concerned
21 a non citizen detained pursuant to 8 U.S.C. & 1226 {a} and whether continued detention was un-
22 constitutional because under the due process clause of Fifth Amendment, he is entitled {2023
23 U.S. Dist LEXIS 13} to a second bond hearing at which the government bears the burden of
24 proof by clear and convincing evidence the panel majority “assume{d} without deciding that the
25 Mathews test applied, noting that the Ninth circuit has regularly applied Mathews to due process

1 challenges to removal proceeding, “and finding “Mathews remain a flexible test that can and
2 must account for the heightened government interest in the immigration detention context.” Ro-
3 driguez Diaz, 53 F.4th at 1193, 1206. Similarly, the dissent “agree{d} that the text developed in
4 Mathews v. Eldridge, 424 U.S. 319,96 S. Ct. 893. 47 L. Ed. 2d 18 { 1976}, is appropriate legal
5 framework to determine whether there was a due process violation Rodriguez Diaz, 53 F. 4th at
6 1219 [Wardlaw, J, dissenting}. Some courts looks to whether the petitioner is requesting an ini-
7 tial bond hearing or a second bond hearing in deciding whether to apply the Mathews test be-
8 cause “{W}hile the Mathews factors may be well suited to determining whether due process re-
9 quires a second bond hearing, they are not particularly dis-positive of whether prolonged manda-
10 tory detention has become unreasonable in particular case. “Firas Djelassi v. Ice Field Office
11 Dir., 434 F. Supp. 3D 917, 2020 WL 263670, at *2 {W.D. Wash. 2000} {quoting Banda, 385 F.
12 Supp. 3D at 1118}. Therefore, given the uncertainty regarding the appropriate test, in an abundance of
13 caution, Petitioner respectfully ask this Court to apply the Methews test, Lopez test, Bandas test.

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17 **Applying the Lopez Test**

18 Under Lopez. The Court looks to “the total length of detention to date, the likely duration of fu-
19 ture detention, and the delays in the removal proceedings caused by the Petitioner and the gov-
20 ernment” to determine whether detention pursuant to 8 U.S.C. § 1226(c) has become unreason-
21 able. Lopez, 631 F. Supp. 3D at 879. However, all the three factors under Lopez has been cov-
22 ered Supra under the Martinez test of this instant petition.
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Applying the Banda Test

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2 Courts in the ninth circuit have taken variety of approaches to determine whether due process re-
3 quires a bond hearing in particular case. See, e.g.; Rodriguez v. Nielsen, No. 18-cv-04187-TSH,
4 2019 U.S. Dist. LEXIS 4228, 2019 WL 7491555, at *6{N.D. Cal. Jan. 7,2019} { applying a
5 bright-line rule detention become prolonged after six months and entitles {the petitioner } to a
6 bond hearing”}; Banda v. McAleenan, 385 F. Supp. 3D 1099, 1117W.D. Wash 2019} {consider-
7 ing six factors, which include: “{1}the total length of detention to date; {2}the likely duration of
8 future detention;{3}[2023 U.S.Dist. LEXIS 12} the condition of detention;{4}delays in the re-
9 moval proceeding caused by the detainee; {5}delays in the removal proceeding caused by the
10 government; and {6}the likelihood that the removal proceeding will result in a final order of re-
11 moval”}; Juarez v. Wolf, No C20-1660-RJB-MLP, 2021 U.S, Dist. LEXIS 107524, 2021 WL
12 2323436, at *4 {W.D. Wash. May 5,2021 considering, in addition time spent in prison for the
13 crime that made him {or her } removable” and the nature of the crime the petitioner committed”}
14 report and recommendation adopted, 2021 U.S.Dist. LEXIS 106645, 2021 WL
15 2322823{W.D.Wash. June 2021}. All six Banda test factors (including the additional two factors
16 in Juarez v. Wolf), have been covered supra under the Martinez test of this instant petition.
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21 **ARGUMENT**

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23 **An alien should not be held in custody unless there are no facts or circumstances that would**
24 **guarantee his return for hearings or to be deported. In general, an alien should not be detained or**
25 **required to post bond unless it is found that he is a threat to the national security or a poor bail**

1 risk. Matter of Patel, 15 I & N Dec. 666 (BIA 1976). National Center for Immigrant Rights v INS,
2 743 F2d 1365 (9th Cir. 1984).

3 Furthermore, the Ninth Circuit has recently issued guidelines regarding the release of aliens
4 and the jurisdiction of the Immigration Judge and BIA to grant bond in these cases. In particular,
5 the Ninth Circuit, in an unpublished Order in Bromfield v Mukasey, 07-72319 made the distinction
6 regarding persons due bond and those who are held under the authority of the Attorney General.
7 The Ninth Circuit decided that Bromfield was due a bond hearing, and that, even though he was
8 being held pending the Ninth Circuit's ruling on his Petition for Review, he was entitled to bond,
9 and the BIA and IJ had authority to grant the bond.

10 The Ninth Circuit on June 6th, 2023 issued a decision in a case that had been pending before it.
11 This precedential case is Avilez v. Garland, 69 F.4th 525 This decisions deliberately discuss the irrec-
12 oncilable decision in Jennings with Casas-Castrillon conclusion that a § 1226(c) detainee who pursues ju-
13 dicial review of an order of removal is detained first under § 1226(c) and later under § 1226(a).

14 The U.S Court of Appeals for the Ninth Circuit holds that Jennings abrogates this portion of its
15 decision in Casa-Castrillon. Thereby, ending the interplay between the statutes governing detention of
16 non-citizens. The U.S Court of Appeals for the Ninth Circuit also hold in its decision that the govern-
17 ment's authority to detain a non-citizen under § 1226(c) applies during the administrative and judicial
18 phases of removal proceedings. To the extend Casas-Castrillon hold otherwise, it no longer is good law.

19 In this case we have a person who is currently being held by the Immigration Services where the
20 Bond is nonexistent for an ongoing period of 18 months and has become prolonged an unreasonable
21 given the circumstances that the Petitioner will appear for all future hearings.

22 The Petitioner has equities in the United States and those equities far outweigh any adversities. If
23 the Petitioner is released he will appear for all hearings and will appear if he is to be removed from the
24 country.

25 The Petitioner here moves this Court to grant a bond review in this case and to release the Peti-
tioner upon conditions that is fair and just.

1 The release on bond or conditions will allow the Petitioner to continue with his life, with his fam-
2 ily, and to gain evidence to use in his hearing and to gain possible assistance of counsel or other adequate
3 representative.

4 Petitioner's 18 months and counting in Respondent's detention without being released or afforded
5 an Individualized bond hearing clearly violates the Due Process Clause of the 5th Amendment.

6 Although Petitioner's detention is statutorily permitted under § 1226(c) as recognized in *Avilez v.*
7 *Garland*, 69 F.4TH, 525.

8 However, the U.S Court of Appeals for the Ninth Circuit observed that, Jennings provides that §
9 1226(c) authorizes detention during the same period as § 1226(a) but does not define that period. And
10 that the government's authority to detain non-citizens under both 1226(c) and 1226(a) has a "definite ter-
11 mination point" and ends at "the conclusion of removal proceedings" Jennings, 138 S Ct. at 846. But Jen-
12 nings did not address when, thereby creating an indeterminate period of time non-citizens can stay in de-
13 tention. Here, we have a person in on going detention for a period of 18 months without being release or
14 afforded a bond hearing. "Freedom from imprisonment-from government custody, detention, or other
15 forms of physical restraint-lies at the heart of the liberty [the Due Process] Clause protects." *Zadvydas*,
16 533 U.S. at 690.

17 Although this Petition is not within the *Zadvydas* hold, the *Zadvydas* opinion opened by noting
18 the clear applicability of general due process standards: physical detention requires both a "special justifi-
19 cation" that "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint'"
20 and "adequate procedural protections." 533 US, at 690, 150 L Ed 2d 653, 121 S Ct 2491 (quoting *Hen-*
21 *dricks* at 356, 138 L Ed 2d 501, 117 S Ct 2072). Nowhere did the Court suggest that the "constitutionally
22 protected liberty interest" in avoiding physical confinement, even for aliens already ordered removed, was
23 conceptually different from the liberty interest of citizens considered in *Jackson*, *Salerno*, *Foucha*, and
24 *Hendricks*. On the contrary, the Court cited those cases and expressly adopted their reasoning, even as ap-
25 plied to aliens whose right to remain in the United States had already been declared forfeited. *Zadvydas*,
533 U.S., at 690, 150 L Ed 2d 653, 121 S Ct 2491.

1 In Demore v Kim, 538 U.S. 510; 123 S. Ct. 1708; the Court stated, "While it is true that re-
2 moval proceedings are unlikely to prove "indefinite and potentially permanent," 533 US. at 696, 150 L Ed
3 2d 653, 121 S Ct 2491, they are not formally limited to any period, and often extend beyond the time sug-
4 gested by the Court, that is, "an average time of 47 days" or, for aliens who exercise their right of appeal,
5 "an average of four months." *Ante*, at 155 L Ed 2d. at 742; see also Case Hearing Report 12 (finding that
6 the average time from receipt of charging documents by a detained alien to a final decision by the immi-
7 gration judge was 54 days).

8 Furthermore, the Supreme Court in its decision in Demore found that "it might be unlaw-
9 ful for a U.S citizen to remain incarcerated for a period of fourteen months or longer, without a
10 bond hearing." Demore 538 U.S at 511. (Meaning it might also be unlawful for a non-citizen to
11 remain incarcerated for a period of fourteen months or longer, without a bond hearing).

12 However, the supreme court in Demore "did not resolve the issue of whether... petitioner's
13 prolonged detention violated due process. ... The court addressed the constitutionality of manda-
14 tory detention § 1226(c) generally, not whether prolonged detention under § 1226(c) was consti-
15 tutional." S.C. v. Warden, 2023 U.S. Dist. LEXIS 201024.

16 In Rodriguez Diaz, the Ninth Circuit "assume[d]" that fourteen months of detention without
17 bond hearing "qualifies as 'prolonged' in a general sense." 53 F.4th at 1207."

18 Moreover, the Ninth Circuit observed that it had "grave doubts that any statute that al-
19 lows for arbitrary prolonged detention without any process is constitutional or that those who
20 founded our democracy precisely to protect against the arbitrary deprivation of liberty would
21 have thought so." Rodriguez v. Marin, 909 F.3d 252, 255, 256 (9th Cir. 2018).

22 "The equal protection component of the fifth amendment protects aliens even whose pres-
23 ence in this country is unlawful, involuntary, or transitory is entitle to that constitutional protec-
24 tion." Russian Fleet v. United States, 282, U.S 481, 489.

1 "the guarantee of equal protection cannot mean one thing when applied to one individual
2 and something else when applied to a person of color". Regents of Univ. of Cal. v. Bakke 438,
3 U.S. 265, 289-290, 98 S. Ct. 2733, 57 L. Ed. 2D 750.

4 The United State Constitution is the supreme law of the land and at such, any statute that
5 does not conform with the U.S. Constitution should be deemed unconstitutional and not enforce-
6 able.

7 Federal civil detainees are entitled by the 5th Amendment to conditions that do not represent sig-
8 nificant risks to health and safety. The 5th amendment protects civil detainees from punishment of any
9 kind. Jones v. Blanas, 393 F.3d 918, 932 (9th Cir. 2004) (quoting Bell, 441 U.S. at 535)).

10 District Courts including this district has longed view the legal rights of an immigration
11 detainee to be analogous to those of a pretrial detainee. Immigration detainees are entitled to the
12 same due process protection.

13 A pretrial detainee's claim is assessed under the Due Process Clause because they have
14 not been convicted of a crime and "may not be punished in any manner neither cruelly and un-
15 usually nor otherwise." As federal civil detainees, the claims brought before the courts arise un-
16 der the Due Process Clause of the 5th Amendment but protections afforded by the Due Process
17 Clause of the Fourteenth Amendment apply. Bell v. Wolfish, 441 U.S. 520, 99 S. Ct. 1861, 60 L.
18 Ed. 2D 447 (1979).

19 Thus, this Court's review must begin by positing commonly accepted substantive
20 standards and proceeded to inquire into any "special justification" that might outweigh the aliens' power-
21 ful interest in avoiding physical confinement "under [individually ordered] release conditions that may
22 not be violated." Id., at 696, 150 L Ed 2d 653, 121 S Ct 2491. The Supreme Court found nothing to justify
23 the Government's position. The statute was not narrowed to a particularly dangerous class of aliens, but
24 rather affected "aliens ordered removed for many and various reasons, including tourist visa violations."
25

1 *Id.*, at 691, 150 L Ed 2d 653, 121 S Ct 2491. The detention itself was not subject to "stringent time limita-
2 tions," Salerno, 481 U.S., at 747, 95 L Ed 2d 697, 107 S Ct 2095, but was potentially indefinite or even
3 permanent, Zadvydas, 533 U.S., at 691, 150 L Ed 2d 653, 121 S Ct 2491. Finally, although both Zadvydas
4 and Ma appeared to be dangerous, this conclusion was undermined by defects in the procedures resulting
5 in the finding of dangerousness. *Id.*, at 692, 150 L Ed 2d 653, 121 S Ct 2491. The upshot was such serious
6 doubt about the constitutionality of the detention statute that the Supreme Court construed it as authoriz-
7 ing continuing detention only when an alien's removal was "reasonably foreseeable." *Id.*, at 699, 150 L Ed
8 2d 653, 121 S Ct 2491.

9 In this case, the confinement has been ongoing for the period of 18 months in an unsanitary and
10 unhygienic conditions in violations of the U.S Constitution and inconsistent with "reasonably related to
11 legitimate governmental objective." This is completely excessive and this Court has jurisdiction to order
12 the Agency to release the Petitioner or to set a bond for the Petitioner's release or that the Petitioner be re-
13 leased on conditions. "if a pretrial detainee cannot be punished because they have not been convicted [cit-
14 ing Bell], then civil detainees cannot be subjected to conditions of confinement substantially worse than
15 they would face upon commitment. Lynch, 744 F.2d at 1461

16 Petitioner claims the fact that he is not able to afford a large bond, but may be able to gain assis-
17 tance from the community in gaining access to a low bond. For the reasons that go before, the Petitioner
18 urges that the court issues orders that does substantial justice.

19 Conclusion

20
21 Based on the foregoing, the weight of the evidence, authorities, and arguments on the
22 record. Petitioner respectfully ask this honorable court to do substantial justice by granting Peti-
23 tioner's petition and order Respondent to release Petitioner on conditional basis within a speci-
24 fied timeline in which individual factors can be considered towards Petitioner's release from de-
25 tention because his prolonged detention violates the 5th Amendment's due process clause.

1 This petition is filed Pro Se and therefore should be protected by the Liberal Construction
2 Doctrine Estelle v. Gamble: A document filed Pro Se is to be liberally construed” Estelle v. Gamble, 429
3 U.S. 97, 106 (1976) and a Pro Se complaint however in-artfully pleaded, must be held to less stringent
4 standards than formal pleadings drafted by lawyers” Erickson v. Pardus, U.S. 89, 75 (2007)

5 I, Jose David Lainez Bueso, declare under penalty of perjury that all the statements in this
6 motion are true and correct to best of my knowledge.

7
8
9
10 Dated 03 day of September 2025

11 Respectfully Submitted
12
13
14
15

16 **VERIFICATION**

17 I, Jose David Lainez Bueso, do hereby aver that the words above are the truth and the entire truth, that I
18 will testify to those facts under penalty of perjury and I provide this information based upon personal be-
19 lief that they are the facts of this matter, except where stated on personal belief. Submitted under the
20 penalty of perjury of the laws of the United States.

21
22 Dated this: 09/03/2025

23
24 Signed: 
25

1
2 **PROOF OF SERVICE**

3 **&**

4 **DECLARATION**

5
6
7
8
9 I, Jose David Lainez Bueso, AVER THAT I AM A PARTY TO THIS ACTION DO HEREBY AVER
10 THAT I HAVE PROVIDED A COPY OF THE FOREGOING DOCUMENT:

11 **PETITION FOR WRIT OF HABEAS CORPUS**

12 **U.S. District Court**
13 **Clerk's Office**
14 **1717 Pacific Avenue Room 3100**
15 **Tacoma, WA 98402**

16 I WILL TESTIFY UNDER THE PENALTY OF PERJURY THAT THIS IS THE TRUTH.

17 THE ITEMS WERE MAILED FIRST CLASS MAIL ON THE DATE BELOW.

18
19
20 SUBMITTED ON 09/03/2025

21
22
23
24
25
Signed: 

