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5

6 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
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8
9 D.D.,

10 Petitioner-Plaintiff,

11 v.

12 Christopher J. LAROSE, Senior Warden, Otay Mesa
Detention Center

13 Gregory J. ARCHAMBEAULT, Acting Field
Office Director of San Diego Office of Detention
14 and Removal, U.S. Immigrations and Customs
Enforcement; U.S. Department of Homeland
15 Security;

16 Todd M. LYONS, Acting Director, Immigration
and Customs Enforcement, U.S. Department of
Homeland Security;

17 Kristi NOEM, in her Official Capacity, Secretary,
18 U.S. Department of Homeland Security; and

19 Pamela BONDI, in her Official Capacity, Attorney
General of the United States;

20 Respondents-Defendants.
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Case No. '25CV2581 BJC JLB

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

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2 1. Petitioner D.D.¹ is in the physical custody of the Department of Homeland
3 Security at the Otay Mesa Detention Center. He is facing prolonged detention in violation of the
4 Due Process Clause of the Fifth Amendment.

5 2. Petitioner has been detained for over six months even though no neutral
6 decisionmaker has conducted a hearing to determine whether this lengthy incarceration is
7 warranted based on danger or flight risk.

8 3. Petitioner therefore respectfully requests that this Court issue a writ of habeas
9 corpus, determine that Petitioner's detention is not justified because the government has not
10 established by clear and convincing evidence that Petitioner presents a risk of flight or danger in
11 light of available alternatives to detention, and order Petitioner's release, with appropriate
12 conditions of supervision if necessary, taking into account Petitioner's ability to pay bond.

13 4. Alternatively, Petitioner requests that the Court issue a writ of habeas corpus and
14 order Petitioner's release within 14 days unless Respondents schedule a hearing before an IJ
15 where (1) to continue detention, the government must establish by clear and convincing evidence
16 that Petitioner presents a risk of flight or danger, even after consideration of alternatives to
17 detention that could mitigate any risk that Petitioner's release would present; and (2) if the
18 government cannot meet its burden, the IJ shall order Petitioner's release on appropriate
19 conditions of supervision, taking into account Petitioner's ability to pay a bond.

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¹ The Petitioner is proceeding under a pseudonym and will concurrently file a motion to proceed under a pseudonym
24 with the Court. The Petitioner will provide his identity, including his full name and alien number, to the
Respondents' counsel.

JURISDICTION

5. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Otay Mesa Detention Center.

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

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

VENUE

8. Venue is proper in this District because this is the district in which Petitioner is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024).

9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

11. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

12. Petitioner, D.D., is a noncitizen currently detained by Respondents pending ongoing removal proceedings.

13. Respondent Christopher J. LaRose is employed by CoreCivic as Senior Warden of the Otay Mesa Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

14. Respondent Gregory J. Archambeault is the Acting Director of the San Diego Field Office of ICE’s Enforcement and Removal Operations division. As such, Mr. Archambeault is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

15. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs Enforcement (ICE) and is responsible for ICE’s policies, practices, and procedures, including

1 those relating to the detention of immigrants. ICE is a legal custodian of Petitioner and Mr.
2 Lyons is named in his official capacity.

3 16. Respondent Kristi Noem is the Secretary of the Department of Homeland
4 Security. She is responsible for the implementation and enforcement of the Immigration and
5 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
6 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

7 17. Respondent Pamela Bondi is the Attorney General of the United States. She is
8 responsible for the Department of Justice, of which the Executive Office for Immigration Review
9 and the immigration court system it operates is a component agency. She is sued in her official
10 capacity.

11 **FACTS**

12 18. Petitioner is a citizen of Iran currently detained by Respondents pending
13 immigration removal proceedings in the Otay Mesa Detention Center. Petitioner is pursuing
14 asylum, withholding of removal, and protection under the Convention Against Torture in the
15 Otay Mesa Immigration Court.

16 19. Petitioner has been detained in DHS custody since March 2, 2025.

17 20. Petitioner has not been provided a bond hearing before a neutral decisionmaker to
18 determine whether his prolonged detention is justified based on danger or flight risk, and ICE
19 had denied parole requests submitted by Petitioner's immigration counsel.

20 21. In light of recent changes in immigration law, requesting a bond hearing from the
21 immigration court is likely to be futile. Petitioner is charged with, inter alia, having entered the
22 United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i). On September 5,
23 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on
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1 all immigration judges, holding that an immigration judge has no authority to consider bond
2 requests for any person who entered the United States without admission. *See Matter of Yajure*
3 *Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Board determined that such individuals are subject
4 to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5 22. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
6 Petitioner's bond request. Absent intervention by this Court, Petitioner cannot and will not be
7 provided with a bond hearing by a neutral decisionmaker to assess the propriety of Petitioner's
8 continued detention, which has become prolonged.

9 23. Petitioner has filed his application for asylum, withholding of removal, and
10 protection under the Convention Against Torture and all supporting evidence regarding
11 persecution in Iran owing to his ethnicity, religion, and political activities in Iran.

12 24. His individual hearing is set for November 7, 2025.

13 25. As of today, Petitioner has been detained in removal proceedings for over 6
14 months. By November 7, 2025, Petitioner will have been detained for over 8 months.

15 LEGAL FRAMEWORK

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

3 27. Due process requires “adequate procedural protections” to ensure that the
4 government’s asserted justification for physical confinement “outweighs the individual’s
5 constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690
6 (internal quotation marks omitted). In the immigration context, the Supreme Court has
7 recognized only two valid purposes for civil detention—to mitigate the risks of danger to the
8 community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

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

5 **A. Detention That Exceeds Six Months Without A Bond Hearing Is**
6 **Unconstitutional.**

7 29. Detention without a bond hearing is unconstitutional when it exceeds six months.
8 *See Demore*, 538 U.S. at 529-30 (upholding only “brief” detentions under Section 1226(c),
9 which last “roughly a month and a half in the vast majority of cases in which it is invoked, and
10 about five months in the minority of cases in which the [noncitizen] chooses to appeal”);
11 *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the constitutionality of detention for
12 more than six months.”); *Rodriguez v. Nielsen*, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7, 2019)
13 (“[D]etention becomes prolonged after six months and entitles [Petitioner] to a bond hearing”).

14 30. The recognition that six months is a substantial period of confinement—and is the
15 time after which additional process is required to support continued incarceration—is deeply
16 rooted in our legal tradition. With few exceptions, “in the late 18th century in America crimes
17 triable without a jury were for the most part punishable by no more than a six-month prison
18 term.” *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this tradition, the
19 Supreme Court has found six months to be the limit of confinement for a criminal offense that a
20 federal court may impose without the protection afforded by jury trial. *Cheff v. Schnackenberg*,
21 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a
22 benchmark in other contexts involving civil detention. *See McNeil v. Dir., Patuxent Inst.*, 407
23 U.S. 245, 249, 250-52 (1972) (recognizing six months as an outer limit for confinement without
24 individualized inquiry for civil commitment). The Court has likewise recognized the need for

1 bright line constitutional rules in other areas of law. *See Maryland v. Shatzer*, 559 U.S. 98, 110
2 (2010) (holding that 14 days must elapse following invocation of *Miranda* rights before re-
3 interrogation is permitted); *Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 55-56 (1991) (holding
4 that a probable cause hearing must take place within 48 hours of warrantless arrest).

5 **B. Even Absent A Bright-Line Six-Month Standard, An Individualized Bond**
6 **Hearing Is Required When Detention Becomes Unreasonably Prolonged.**

7 31. Courts in the Southern District of California have taken the position that the three-
8 factor test outlined in *Lopez v. Garland*, 631 F.Supp.3d 870 (E.D. Cal. Sept. 29, 2022), is
9 appropriate to consider when determining whether a non-citizen detainee's prolonged detention
10 has become so unreasonable as to require an initial bond hearing. *See Durand v. Allen*, 2024 WL
11 711607 (S.D. Cal. Feb. 21, 2024); *Sibomana v. LaRose*, WL 3028093 (S.D. Cal. April 20, 2023);
12 *Sanchez-Rivera v. Matuszewski*, 2023 WL 139801 (S.D. Cal. Jan. 9, 2023).. The *Lopez* factors, in
13 turn, look at (1) the total length of detention to date; (2) the likely duration of future detention;
14 and (3) the delays in the removal proceedings caused by the petitioner and the government.
15 *Lopez*, 631 F. Supp. 3d at 869. As explained below, each of these three factors favors the
16 Petitioner.

17 32. Petitioner's detention, without *any* individualized review, is unreasonable under
18 the test set out in *Lopez v. Garland*, 631 F.Supp.3d 870 (E.D. Cal. Sept. 29, 2022), and each of
19 these three factors favors the Petitioner.

20 33. First, Petitioner has experienced detention of a significant and prolonged duration.
21 Petitioner, who has been held in carceral conditions for over six months and been transferred on
22 no less than four occasions, has already has indisputably experienced a significant length of civil
23 detention, thus satisfying the first of the three *Lopez* factors.
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1 34. Second, the likelihood that the Petitioner will suffer additional detention in the
2 future is great, thus satisfying the second of the three *Lopez* factors. The Petitioner is not
3 scheduled for an individual hearing on his asylum application until November 7, 2025. It is also
4 possible that the hearing will not finish in two hours and will be continued to a future date. The
5 record in the Petitioner's immigration case shows that the earliest available dates upon request
6 have typically been months in the future. Furthermore, should the Petitioner be granted relief,
7 DHS may choose to appeal the case and argue that the Petitioner can remain detained through the
8 pendency of a multi-month appeal process, which may result in a remand back to the
9 immigration court or a subsequent petition for review to the Ninth Circuit Court of Appeals.
10 Similarly, if the Petitioner is denied relief, he intends to appeal the decision, resulting in a similar
11 timeline for appeal during which he may continue to experience detention. For these reasons, the
12 Petitioner has shown that he can satisfy the second factor in the *Lopez* test.

13 35. Third, the vast majority of delays in these proceedings have caused by the
14 government. Here, DHS refused to provide the Petitioner with a Notice to Appear (NTA) in
15 immigration court for over two months from the day that he passed his Convention Against
16 Torture Screening on March 20, 2025 until DHS filed his NTA on June 4, 2025. Another twelve
17 days passed before his first master calendar hearing before the immigration judge on June 16,
18 2025. While most immigration judges will set individuals for a final hearing and provide them
19 with a filing deadline after their application has been submitted, the immigration judge in this
20 case refused to set the Petitioner for a final hearing until all evidence in his case had been filed,
21 which delayed the Petitioner's ability to secure an earlier individual hearing date while he
22 gathered hundreds of pages of evidence, secured the assistance of experts, scheduled medical
23 evaluations, and obtained translations of essential documents. These delays resulted in his initial
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1 individual hearing being scheduled for January 6, 2026. The Petitioner's immigration counsel
2 made diligent attempts to move proceedings forward, filing a motion to advance his hearing date
3 to an earlier date, which was eventually granted. As a result of his counsel's efforts, the
4 Petitioner's hearing is now scheduled for November 7, 2025, more than eight months after the
5 date that he arrived seeking protection in the United States. For these reasons, it is evident that
6 significant delays in Mr. D.'s case were on account of Defendants' actions, thus satisfying the
7 last of the three *Lopez* factors.

8 36. As noted, Petitioner has been detained for a substantial length of time, and
9 Petitioner's detention is likely to continue as Petitioner asserts his right to seek immigration
10 relief. Noncitizens should not be punished for pursuing "legitimate proceedings" to seek relief.
11 *See Masood v. Barr*, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020) ("[I]t ill suits the United
12 States to suggest that [Petitioner] could shorten his detention by giving up these rights and
13 abandoning his asylum application."). Moreover, Petitioner's confinement and experiences at a
14 facility operated by a private, for-profit prison contractor, demonstrate that his conditions of
15 confinement are not meaningfully different from those of criminal punishment.

16 **C. At Any Hearing, The Government Must Justify Ongoing Detention By Clear**
17 **And Convincing Evidence.**

18 37. At a bond hearing, due process requires certain minimum protections to ensure
19 that a noncitizen's detention is warranted: the government must bear the burden of proof by clear
20 and convincing evidence to justify continued detention, taking into consideration available
21 alternatives to detention; and, if the government cannot meet its burden, the noncitizen's ability
22 to pay a bond must be considered in determining the appropriate conditions of release.

23 38. To justify prolonged immigration detention, the government must bear the burden
24 of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh*

1 v. *Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Aleman Gonzalez v. Barr*, 955 F.3d 762, 781
2 (9th Cir. 2020), *rev'd on other grounds by Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 213 L.
3 Ed. 2d 102 (2022) (“*Jennings’s* rejection of layering [the clear and convincing burden of proof
4 standard] onto § 1226(a) as a matter of statutory construction cannot . . . undercut our
5 constitutional due process holding in *Singh*.”); *Doe v. Garland*, 2023 WL 1934509, at *2 (N.D.
6 Cal. Jan. 10, 2023) (same); *Pham v. Becerra*, 2023 WL 2744397, at *7 (N.D. Cal. Mar. 31, 2023)
7 (same); *Hernandez Gomez v. Becerra*, 2023 WL 2802230, at *4 (N.D. Cal. Apr. 4, 2023) (same);
8 *Martinez Leiva v. Becerra*, 2023 WL 3688097, at *9 (N.D. Cal. May 26, 2023); *I.E.S. v. Becerra*,
9 2023 WL 6317617, at *10 (N.D. Cal. Sept. 27, 2023) (same); *Singh Grewal v. Becerra*, 2023
10 WL 6519272, at *8 (N.D. Cal. Oct. 4, 2023) (same); *Gomez v. Becerra*, 2023 WL 6232236, at *9
11 (N.D. Cal. Sept. 25, 2023) (same); *Henriquez v. Garland*, 2023 WL 6226374, at *4 (N.D. Cal.
12 Sept. 25, 2023) (same); *Rodriguez Picazo v. Garland*, 2023 WL 5352897, at *7 (N.D. Cal. Aug.
13 21, 2023) (same).

14 39. Where the Supreme Court has permitted civil detention in other contexts, it has
15 relied on the fact that the Government bore the burden of proof by at least clear and convincing
16 evidence. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial
17 detention after a “full-blown adversary hearing” requiring “clear and convincing evidence” and
18 “a neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil
19 detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-
20 final-order custody review procedures deficient because, *inter alia*, they placed burden on
21 detainee).

22 40. The requirement that the government bear the burden of proof by clear and
23 convincing evidence is also supported by application of the three-factor balancing test from
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1 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). First, “an individual’s private interest in
2 ‘freedom from prolonged detention’ is ‘unquestionably substantial.’” *See Rodriguez Diaz*, 53
3 F.4th at 1207 (citing *Singh*, 638 F.3d at 1208). Second, the risk of error is great where the
4 government is represented by trained attorneys and detained noncitizens may lack English
5 proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear and convincing
6 evidence at parental termination proceedings because “numerous factors combine to magnify the
7 risk of erroneous factfinding” including that “parents subject to termination proceedings are
8 often poor, uneducated, or members of minority groups” and “[t]he State’s attorney usually will
9 be expert on the issues contested”). Moreover, detained noncitizens are incarcerated in prison-
10 like conditions that severely hamper their ability to gather evidence and prepare for a bond
11 hearing. Third, placing the burden on the government imposes minimal cost or inconvenience to
12 it, as the government has access to the noncitizen’s immigration records and other information
13 that it can use to make its case for continued detention.

14 **D. Due Process Requires Consideration Of Alternatives To Detention.**

15 41. Due process also requires consideration of alternatives to detention. The primary
16 purpose of immigration detention is to ensure a noncitizen’s appearance during civil removal
17 proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if
18 there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*,
19 441 U.S. 520, 538–39 (1979) (civil pretrial detention may be unconstitutionally punitive if it is
20 excessive in relation to its legitimate purpose). ICE’s alternatives to detention program—the
21 Intensive Supervision Appearance Program—has achieved extraordinary success in ensuring
22 appearance at removal proceedings, reaching compliance rates close to 100 percent. *Hernandez*
23 *v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99%
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1 attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). Thus,
2 alternatives to detention must be considered in determining whether prolonged incarceration is
3 warranted.

4 42. Due process likewise requires consideration of a noncitizen’s ability to pay a
5 bond. “Detention of an indigent ‘for inability to post money bail’ is impermissible if the
6 individual’s ‘appearance at trial could reasonably be assured by one of the alternate forms of
7 release.’” *Hernandez*, 872 F.3d at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th
8 Cir. 1978) (en banc)). Therefore, when determining the appropriate conditions of release for
9 people detained for immigration purposes, due process requires “consideration of financial
10 circumstances and alternative conditions of release.” *Id.*; see also *Martinez v. Clark*, 36 F.4th
11 1219, 1231 (9th Cir. 2022) (“While the government had a legitimate interest in protecting the
12 public and ensuring the appearance of noncitizens in immigration proceedings, we held [in
13 *Hernandez*] that detaining an indigent alien without consideration of financial circumstances and
14 alternative release conditions was ‘unlikely to result’ in a bond determination ‘reasonably related
15 to the government’s legitimate interests.’ (citation omitted).”).

16 **CLAIM FOR RELIEF**

17 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO**
18 **THE U.S. CONSTITUTION**

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

20 44. The Due Process Clause of the Fifth Amendment forbids the government from
21 depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

22 45. To justify Petitioner’s ongoing prolonged detention, due process requires that the
23 government establish, at an individualized hearing before a neutral decisionmaker, that
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1 Petitioner's detention is justified by clear and convincing evidence of flight risk or danger, taking
2 into account whether alternatives to detention could sufficiently mitigate that risk.

3 46. For these reasons, Petitioner's ongoing prolonged detention without a hearing
4 violates his right to due process.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 7 a. Assume jurisdiction over this matter;
- 8 b. Issue a Writ of Habeas Corpus, determine that Petitioner's detention is not
9 justified because the government has not established by clear and convincing
10 evidence that Petitioner presents a risk of flight or danger in light of available
11 alternatives to detention, and order Petitioner's release (with appropriate
12 conditions of supervision if necessary), taking into account Petitioner's ability to
13 pay a bond;
- 14 c. In the alternative, issue a Writ of Habeas Corpus and order Petitioner's release
15 within 14 days unless Respondents schedule a hearing before an immigration
16 judge where: (1) to continue detention, the government must establish by clear
17 and convincing evidence that Petitioner presents a risk of flight or danger, even
18 after consideration of alternatives to detention that could mitigate any risk that
19 Petitioner's release would present; and (2) if the government cannot meet its
20 burden, the immigration judge order Petitioner's release on appropriate conditions
21 of supervision, taking into account Petitioner's ability to pay a bond;
- 22 d. Issue a declaration that Petitioner's ongoing prolonged detention violates the Due
23 Process Clause of the Fifth Amendment;
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- 1 e. Issue an order enjoining the Respondent's from removing the Plaintiff from the
- 2 United States or transferring him from the Southern District of California while
- 3 this matter is pending;
- 4 f. Award Petitioner his costs and reasonable attorneys' fees in this action as
- 5 provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- 6 g. Grant such further relief as the Court deems just and proper.
- 7

8 DATED this 30th of September, 2025.

9
10 /s/ Warren Craig
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19 *Attorney for Petitioner*
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**VERIFICATION FOR SOMEONE ACTING ON PETITIONER'S BEHALF PERSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's counsel in his removal proceedings and in all the applications for parole from immigration custody that he has previously filed with ICE. I have been representing Petitioner since March 2025 and have also discussed with him the events described in this Petition. On those bases, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 30th of September, 2025. /s/Natalie Cadwalader-Schultheis

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