Kimberly S. Hutchison, SBN 288682
Liam S. Barrett, SBN 349652
SINGLETON SCHREIBER, LLP
591 Camino De La Reina, Ste 1025
San Diego, CA 92108
khutchison@singletonschreiber.com
lbarrett@singletonschreiber.com
Telephone: (619) 771-3473
Fax: (619) 255-1515

Attorneys for Petitioner

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

C.L.V.,[1] *Detainee, Otay Mesa Detention Center*,

Petitioner,

v.

CHRISTOPHER J. LAROSE, *as Senior Warden, Otay Mesa Detention Center*; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, *as Secretary of the United States Department of Homeland Security*; TODD LYONS, *as Acting Director of U.S. Immigration and Customs Enforcement*; PATRICK DIVVER, *ICE Enforcement and Removal Office Field Operations Director for San Diego*; and DOES 1–10.

Respondents.

Case No: '25CV2795 JES MMP

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

[1] Petitioner concurrently files a motion to proceed under pseudonym

I. Introduction

1. Petitioner C.L.V. ("Petitioner" or "C.L.V."), currently detained at the Otay Mesa Detention Center in San Diego, California, files this Petition for writ of *habeas corpus* under 28 U.S.C. § 2241, following his courthouse arrest by Respondent Immigration and Customs Enforcement ("ICE") in the Edward J. Schwartz Federal Building in San Diego, California, after a mandatory asylum hearing.

2. Pursuant to 28 U.S.C § 2243, C.L.V. requests the Court: (a) issue the writ of *habeas corpus*; or (b) order Respondents to show cause why the relief Petitioner seeks should not be granted, within three days of filing this Petition. 28 U.S.C. § 2243. Should the Court order the latter, Petitioner requests it: (c) set a hearing within five days of Respondents' return on the order to show cause. *Id.*

3. C.L.V. is imprisoned by the federal government under color of the immigration laws. His continued imprisonment is unlawful because: (1) C.L.V. was detained in a manner arbitrary, capricious, without required process, and in excess of statutory authority or limitations—thus violating the Administrative Procedure Act ("APA"); and (2) his detention violates his rights under the Fifth Amendment to the U.S. Constitution.

4. Under these circumstances, the Constitution requires C.L.V.'s immediate release from further imprisonment.

II. Jurisdiction and Venue

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (*habeas corpus*); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question jurisdiction); Article I, Section 9, Clause 2 of the U.S. Constitution (the Suspension Clause); and Article III of the U.S. Constitution.

6. Venue is proper in the Southern District of California pursuant to 28 U.S.C. §§ 1391(b)(2) and (e)(1)(B) because a substantial part of the events or omissions giving rise to this claim have transpired here, as C.L.V. is incarcerated

here, and because proper respondents reside in this judicial district. 28 U.S.C. § 1391(b)(1), (e)(1)(A). Venue is also proper because Respondents are officers or employees of the United States acting in their official capacities. Additionally, venue is proper under the habeas statute because the federal Respondents with custody over C.L.V reside in this district. *See* 28 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 451-52 (2004) (Kennedy, J., concurring).

III. Parties

7. Petitioner C.L.V. entered the United States on November 23, 2024, without inspection but with no criminal history, and applied for asylum within one year thereafter. ICE arrested him on May 22, 2025, in San Diego, California, and he has remained detained at the Otay Mesa Detention Center, a detention facility for ICE detainees in San Diego, California, ever since.

8. Respondent Department of Homeland Security ("DHS") is a cabinet-level agency of the federal government. DHS and its components, including ICE, are the agencies principally charged with implementing and enforcing the immigration laws and policies of the United States, including immigration detention at Otay Mesa Detention Center.

9. Respondent ICE is the sub-agency within DHS responsible for carrying out immigration enforcement and detention in the interior of the United States and for representing DHS in proceedings before the immigration courts, including detention at the Otay Mesa Detention Center.

10. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. As such, Secretary Noem has legal custody of C.L.V.

11. Respondent Todd Lyons is the Acting Director of ICE. In that capacity, Defendant Lyons is responsible for the enforcement of the immigration laws in the interior of the United States, the implementation of enforcement policies, and oversight of the DHS lawyers who appear before the immigration courts.

12. Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa Detention Center. In that capacity, he is the facility's most senior leader and supervisor, responsible for all employees therein and detention of all detainees thereof, including C.L.V.

13. Respondent Patrick Divver is the San Diego ICE Enforcement and Removal Operations ("ERO") Field Director, responsible for ICE enforcement and removal operations throughout the San Diego region.

14. Respondents Does 1–10 are individuals whose names are yet unknown, but who are ICE officials within the San Diego ICE Field Office, located at 880 Front St., Suite 2242, San Diego, CA 92101. These individuals are responsible for overseeing and directing immigration enforcement and detention activities within San Diego County.

IV. Facts

15. C.L.V., a Colombian man who fears persecution because of his political activism, entered the United States on November 23, 2024, without inspection but free of any criminal history.

16. After later interaction with immigration officials, C.L.V. was issued a Notice to Appear, placed in standard removal proceedings pursuant to 8 U.S.C. § 1229a, which is INA § 240 ("Section 240 proceedings"). He was released on his own recognizance based on a finding that he was not a danger to the community or a flight risk.

17. Within one year of entering the United States, C.L.V. applied for asylum.

18. C.L.V. remained free from detention and on his own recognizance until May 22, 2025, when he attended a scheduled, mandatory hearing in his immigration case in the San Diego Immigration Court in the Edward J. Schwartz Federal Building ("Schwartz Federal Building") in San Diego, California.

19. The Schwartz Federal Building is a part of the John Rhoades Federal Judicial Center in San Diego, California, which includes federal property located at 221 West Broadway, 333 West Broadway, 880 Front Street, 325 West F Street, 808 Union Street, and the adjoining plaza. *See* Designation – John Rhoades Federal Judicial Center, Public Law 113-241, 128 Stat. 2858 (2014), available at https://www.congress.gov/113/statute/STATUTE-128/STATUTE-128-Pg2858.pdf (last accessed October 14, 2025). These also include the Edward J. Schwartz Federal Courthouse and the James M. Carter and Judith N. Keep Federal Courthouse.

20. At C.L.V.'s asylum hearing, DHS orally moved, without notice, to dismiss C.L.V.'s immigration case. The Immigration Judge granted this motion over C.L.V.'s objection.

21. Upon exiting the hearing, ICE immediately arrested C.L.V. in the building, specifically in the hallway of the immigration court.

22. ICE arrested C.L.V. pursuant to an I-200 administrative warrant that indicated the determination that he was removable was based on "the execution of a charging document to initiate removal proceedings against the subject" and "the failure to establish admissibility subsequent to deferred inspection"—but did *not* check off the box indicating "the pendency of ongoing removal proceedings against the subject."

23. Upon arrest, ICE transported C.L.V. to the Otay Mesa Detention Center. He was transferred to another facility, then transferred back to the Otay Mesa Detention Center, where he remains.

24. Respondents additionally placed C.L.V. in "expedited removal" proceedings under INA § 235 (8 U.S.C. § 1225(b)) ("Section 235 proceedings").[2]

[2] Petitioner asserts that placing him in expedited proceedings was unlawful and thus invalid, but that issue is not directly raised in this petition.

25. Under the guise of expedited removal, C.L.V. has been held in detention and denied any hearing in which an immigration judge examines individualized reasons supporting his detention.26. At some point prior to October 9, 2025, C.L.V. underwent a credible fear interview, at which he received a positive finding. C.L.V. had previously participated in a credible fear interview after his arrest, but his immigration attorney in that matter was later informed that it was invalid because, at the time, an appeal of the dismissal of his proceedings before the immigration judge was still pending. On that basis DHS asserted it lacked jurisdiction to conduct a credible fear interview.

27. C.L.V. also had a hearing before an immigration judge, at which the immigration judge held that they lacked jurisdiction to hear or issue bond or parole.

28. Upon information and belief, ICE and immigration judges have taken the general position that they lack jurisdiction to hear or issue bond for individuals in expedited removal, including C.L.V., regardless of past participation or classification in Section 240 Proceedings.

DHS employees are ordered to seek, and Executive Office of Immigration Review employees ordered to grant, dismissal of removal proceedings before immigration judges without following relevant procedural rules in the Immigration Practice Manual and binding regulations.

29. On information and belief, on or about May 20, 2025, DHS issued guidance regarding, among other things, the dismissal of full removal proceedings under INA § 240 (found at 8 U.S.C. § 1229a). ("DHS Dismissal Guidance"). On information and belief, the DHS Dismissal Guidance instructed DHS attorneys to dismiss Section 240 removal proceedings before immigration judges and coordinate in advance with ICE officers so that those officers could then arrest the individuals whose cases had just been dismissed right outside the immigration court.

30. About ten days later, Executive Office of Immigration Review ("EOIR") leadership sent an email to immigration judges with the subject line "Guidance on Case Adjudication" that directly addressed motions to dismiss by DHS attorneys. *See* Am. Immigr. Laws. Ass'n, *Practice Alert: EOIR Guidance to Immigration Judges on Dismissals and Other Adjudications* (June 12, 2025), *available at* https://www.aila.org/practice-alert-eoir-guidance-to-immigration-judges-on-dismissals-and-other-adjudications ("EOIR Case Adjudication Guidance"). It stated that "DHS Motions to Dismiss may be made orally and decided from the bench" without requiring "additional documentation or briefing. *Id.* It explicitly stated that a "10-day response period is not required," even though the Immigration Court Practice Manual ("Practice Manual") mandates it. *Id.* It also highlighted "DHS Enforcement actions at or near EOIR facilities" and instructed all immigration judges to be familiar with 2025 EOIR OPPM. *Id.*

31. The Department of Justice has stated that the "requirements and local orders contained in the Practice Manual are binding on all parties who appear before the immigration courts, unless the immigration judge directs otherwise in a particular case." Immigration Court Practice Manual at 3, Statement Signed by Chief Immigration Judge Tracy Short (Nov. 13, 2020) *available at* https://www.justice.gov/eoir/foialibrary/icpm01122021/dl; *see also Cui v. Garland*, 13 F.4th 991, 998 (9th Cir. 2021) (noting Practice Manual is authorized under 8 C.F.R. §§ 1003.0(b)(1)(i), 1003.9(b)(1)); 8 C.F.R. § 1003.0(b)(1)(i) (granting EOIR Director authority to "issue operational instructions and policy…"); 8 C.F.R. § 1003.9(b)(1) (granting Chief Immigration Judge the same authority).

32. The EOIR Case Adjudication Guidance violates the rules in the Practice Manual. Specifically, the Practice Manual mandates that "filings must be

submitted at least fifteen (15) days in advance of the master calendar hearing if requesting a ruling at or prior to the hearing" for "master calendar hearings involving unrepresented non-detained aliens. *See* Practice Manual §3.1(b)(1)(A) (allowing filings to "be made either in advance of the hearing or in open court during the hearing" if the party is not requesting a ruling at or prior to the hearing), *available at* https://www.justice.gov/eoir/reference-materials/ic. The Practice Manual then requires any response to be filed within ten days of the filing of the motion. *Id.* For unrepresented non-detained individuals who have an individual calendar hearing, "filings must be submitted at least thirty (30) days in advance of the hearing" and responses "must be filed within ten (10) days after the original filing with the immigration court. *Id.* at § 3.1(b)(2)(A). Represented non-detained individuals must also file documents thirty days in advance of an individual calendar hearing, and responses due within ten days of the original filing. *Id.* at § 3.1(b)(2)(B).

33. The EOIR Case Adjudication Guidance also violates EOIR regulations found in the Code of Federal Regulations. Those regulations address pre-decision motions, requiring that "motions submitted prior to the final order of an immigration judge shall be in writing and shall state, with particularity the grounds therefor, the relief sought, and the jurisdiction" unless otherwise permitted by the immigration judge in the case. 8 C.F.R. § 1003.23(a)

34. When proceedings under INA § 240 are initiated by DHS filing a Notice to Appear with an immigration court, jurisdiction vests with that court. DHS may not unilaterally cancel the proceedings; it must instead seek dismissal from the immigration judge. 8 C.F.R. §§ 239.2(c), 1239.2(c). DHS may only move for dismissal "on the grounds set out under 8 CFR § 239.2(a)." *Id.* Immigration judges must consider arguments made in opposition to dismissal before deciding the

motion. *Cf. id.* § 1003.23(a). Likewise, immigration judges must exercise independent judgment in removal proceedings and cannot allow either party to unilaterally control proceedings before them. *See Gonzalez-Caraveo v. Sessions*, 882 F.3d 885 (9th Cir. 2018) ("Allowing the Department or a petitioner to have absolute veto power over administrative closure is an impermissible violation of the IJ and BIA's delegated authority and responsibility to adjudicate cases.") (discussing administrative closures).

35. Relevant to Petitioner, "[f]ailure to appear for a scheduled immigration hearing without prior authorization may result in dismissal of the [asylum] application and the entry of an order of deportation or removal in absentia." 8 C.F.R. § 1208.10.

DHS implements a policy of placing those whose Section 240 proceedings are terminated into expedited removal proceedings

36. In addition to a policy of dismissing Section 240 proceedings as discussed above, on information and belief, DHS has instituted a policy whereby it immediately places those individuals whose Section 240 proceedings are dismissed as discussed above into "expedited removal" proceedings under Section 235 (8 U.S.C. § 1225(b)), which requires mandatory immigration detention. *See, e.g.*, *Designating Aliens for Expedited Removal*, 90 Fed. Reg. 8139–40 (Jan. 24, 2025) (initiating and implementing, in part, this policy). This includes Petitioner.

ICE officers arrive in the San Diego Immigration Court each day with a list of individuals whom they intend to arrest and, often, civil immigration warrants obtained for those individuals before their cases were dismissed.

37. In the San Diego Immigration Court, DHS attorneys began making oral motions to dismiss Section 240 proceedings in May 2025, and the individuals in whose cases those motions were made were promptly detained by DHS officers. Most often, those arrests happened in the hallway directly outside the San Diego

Immigration Court on the 4th floor of 880 Front Street, which is part of the Federal Judicial Complex. Those DHS officers had a list of individuals whom they intend to arrest each day. For some of the individuals on the lists, the DHS officers produced a "Warrant for Arrest of Alien," Form I-200.[3]

FIRST GROUND FOR *HABEAS* RELIEF:
PETITIONER'S DETENTION VIOLATES THE ADMINISTRATIVE PROCEDURE ACT ("APA") (5 U.S.C. § 706(2)(A), (C), (D))

38. Petitioner incorporates the foregoing allegations as if fully set forth herein.

39. "Under the APA, a court must 'hold unlawful and set aside agency action . . . found to be—arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,' or 'without observance of procedure required by law.'" *Y-Z-L-H v. Bostock*, --- F. Supp. 3d ----No. 3:25-CV-965-SI, 2025 WL 1898025 *11 (D. Or. July 9, 2025) (quoting 5 U.S.C. § 706(2)).

40. Upon initial interaction with immigration officials, Plaintiff was placed into Section 240 Proceedings and released on his own recognizance.

41. Petitioner remained free from detention and on his own recognizance until May 22, 2025, when he attended a scheduled, mandatory hearing in his immigration case at the San Diego Immigration Court in the Schwartz Federal Building in San Diego, California.

42. Petitioner was arrested pursuant to an I-200 warrant.

43. I-200 warrants are administrative, not judicial, and issued under INA §236 (8 U.S.C. § 1226). *See Lopez Benitez v. Francis*, --- F. Supp. 3d ----, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 *1 (S.D.N.Y. Aug. 13, 2025) (discussing INA provisions governing these warrants).

---

[3] *See, e.g. Warrant for Arrest of Alien*, Form I-200, U.S. Dep't of Homeland Sec., https://www.ice.gov/sites/default/files/documents/Document/2017/I-200_SAMPLE.PDF (last accessed Oct. 15, 2025).

44. Having previously encountered Petitioner and released him in the country based on the determination that he was not a danger to the community or a flight risk and on his own recognizance while awaiting Section 240 procedures, and having arrested him under a warrant issued under Section 236 (8 U.S.C. § 1226), Respondents may not detain him under expedited removal processes set forth in Section 235 (8 U.S.C. § 1225(b)). *See Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149 *14 (S.D. Cal. Oct. 1, 2025) ("[T]hough he has not been present in this country for a 2-year period, he *has* been paroled into the United States. Therefore, the Court finds that Petitioner could not be subject to § 1225.") (emphasis original); *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503 *8–12 (N.D. Cal. Sept. 12, 2025); *Aviles-Mena v. Kaiser*, No. 25-CV-06783-RFL, 2025 WL 2578215 *3–5 (N.D. Cal. Sept. 5, 2025) ("[W]hen ICE affirmatively chooses to release an individual on parole, it has made the determination that it no longer intends to fast-track their removal and that it will proceed with the standard removal process under 8 U.S.C. § 1229a."); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 *3–7, 9 (E.D. Cal. Aug. 21, 2025); *see also Lopez Benitez*, --- F. Supp. 3d ----, 2025 WL 2371588 at *4–7, 9 ("DHS has consistently treated [Petitioner] as subject to detention on a discretionary basis under § 1226(a), which is fatal to Respondents' claim that he is subject to mandatory detention under § 1225(b) . . . ."); *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025) Dkt. No. 14 at 7–8 (In Chambers Order).

45. Instead, Petitioner may be arrested and detained pending removal proceedings only pursuant to INA § 236 (8 U.S.C. § 1226), under which detention is discretionary, not mandatory. *See Garcia*, 2025 WL 2420068 at *3–7, 9; *Salcedo Aceros*, 2025 WL 2637503 at *8–12; *Lopez Benitez*, --- F. Supp. 3d ----, 2025 WL 2371588 at *4–5, 8–9.

46. Additionally, having released him after determination that he was not a risk to the community nor a flight risk, the law requires prior notice of the specific reasons why the government chooses to retain him and "an individualized determination" as to Petitioner's current flight risk or danger to the community. *See Noori*, 2025 WL 2800149 at *13. "Respondents [thus] must provide at minimum some reasoning explaining why the Petitioner would now be considered a flight risk or danger to the community" and run afoul of the APA by failing to. *Id.*

47. Because Respondents provided no individualized rationale for revoking C.L.V.'s previous release, nor any prior notice with a statement of reasons for doing so, they acted arbitrarily and capriciously, violating the APA. *See, e.g. id.*; *X-Z L-H*, --- F.Supp.3d ----, 2025 WL 1898025 at *12–14; *Garcia*, 2025 WL 2420068 at *6 (providing a survey of recent case law).

SECOND GROUND FOR *HABEAS* RELIEF:
PETITIONER'S DETENTION VIOLATES HIS FIFTH AMENDMENT RIGHT TO DUE PROCESS (U.S. Const. Amend. 5)

48. Petitioner incorporates the foregoing allegations as if fully set forth herein.

49. Upon initial interaction with immigration officials, Plaintiff was placed into Section 240 Proceedings released on his own recognizance.

50. Petitioner remained free from detention and on his own recognizance until May 22, 2025, when he attended a scheduled, mandatory hearing in his immigration case at the Schwartz Federal Building in San Diego, California.

51. Petitioner was arrested pursuant to an I-200 Warrant, an administrative—not judicial—warrant issued under INA § 236 (8 U.S.C. § 1226). *Lopez Benitez*, --- F. Supp. 3d ----, 2025 WL 2371588 at *1.

52. As discussed, having previously encountered Petitioner and released him in the country based on the determination that he was not a danger to the community or a flight risk and on his own recognizance while awaiting Section 240

procedures, and having arrested him under a warrant issued under Section § 236 (8 U.S.C. § 1226), Respondents may not detain under expedited removal procedures set forth in Section 235 (8 U.S.C. § 1225(b)). *See Noori*, 2025 WL 2800149 at *11; *Salcedo Aceros*, 2025 WL 2637503 at *8–12; *Aviles-Mena*, 2025 WL 2578215 at *3–5; *Garcia*, 2025 WL 2420068 at *3–7, 9; *Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025) Dkt. No. 14 at 7–8; *see also Lopez Benitez*, --- F. Supp. 3d ----, 2025 WL 2371588 at *4–5, 8–9.

53. Instead, Petitioner may be arrested and detained pending removal proceedings only pursuant to INA § 236 (8 U.S.C. § 1226), under which detention is discretionary, not mandatory. *See Garcia*, 2025 WL 2420068 at *3–7, 9; *Lopez Benitez*, --- F. Supp. 3d ----, 2025 WL 2371588 at *4–5, 8–9; *Salcedo Aceros*, 2025 WL 2637503 at *7–12.

54. Thus, Petitioner is entitled to certain procedural safeguards before revocation of parole, as "[e]ven when the government has discretion to detain an individual, its subsequent decision to release [them] creates 'an implicit promise' that [they] will be re-detained only if [they] violate[] the conditions of [their] release." *Pablo Sequen v. Kaiser*, --- F. Supp. 3d ---- No. 25-CV-06487-PCP, 2025 WL 2650637 *5 (N.D. Cal. Sept. 16, 2025). (citing *Morrissey v. Brewer*, 408 U.S. 471, 482, (1972)); *accord Garcia*, 2025 WL 2420068 at *7.

55. Additionally, as he has "passed through our gates" and lived in the United States for a substantial period, he "may be expelled" or re-detained "only after proceedings conforming to traditional standards of fairness encompassed in due process of law." *Noori*, 2025 WL 2800149 at *9 (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)); *see Pablo Sequen*, --- F. Supp. 3d ----, 2025 WL 2650637 at *5.

56. As such, decisions to re-detain C.L.V. are subject to the Fifth Amendment's Due Process requirements. *Naser Noori*, 2025 WL 2800149 at *9–11; *Pablo Sequen*, --- F. Supp. 3d ----, 2025 WL 2650637 at *5; *Rojas v. Albarran*,

No. 25-CV-08172-PCP, 2025 WL 2772695 *2 (N.D. Cal. Sept. 25, 2025); *see also Pinchi v. Noem*, No. 25-CV-05632-RMI (RFL), 2025 WL 1853763 *2 (N.D. Cal. July 4, 2025) (collecting cases). "[I]f DHS has exercised its discretion to release a noncitizen pending civil removal proceedings, the noncitizen has a protected liberty interest in remaining out of immigration custody." *Pablo Sequen*, --- F. Supp. 3d ---, 2025 WL 2650637 at *5.

57. Weighing Petitioner's private liberty interests, the risk of erroneous deprivation in the procedures used, and the value of other safeguards, individuals in C.L.V.'s position are constitutionally entitled to, at minimum: (1) a pre-detention hearing on bond at which the immigration judge assesses their individualized risk of flight or danger to the community; and (2) notice and reason for his detention and for terminating his Section 240 Proceedings prior to arresting him, as various district courts have held. *See, e.g. id.* at *5, 8–9; *Noori*, No., 2025 WL 2800149 at *11 ("Denying Petitioner notice and reasoning on the termination of his 240 removal proceedings, his placement into expedited removal proceedings, and revocation of his parole . . . violated due process."); *Aviles-Mena*, 2025 WL 2578215 at *7 (enjoining respondents "from re-detaining [the petitioner] in any form . . . without notice and a pre-deprivation hearing before a neutral decisionmaker"); *Pinchi*, 2025 WL 1853763 at *3; *Rojas*, 2025 WL 2772695 at *2.

58. Likewise, Respondents denied Petitioner a pre-deprivation hearing at which individualized and particular reasons for his detention are assessed, instead asserting, at best, a categorical lack of jurisdiction based on his "expedited" status. In doing so, Respondents violated C.L.V.'s right to due process.

59. Thus, the law requires his release.

V. Petitioner need not seek further administrative exhaustion

60. C.L.V. need not seek further administrative exhaustion in his claims because exhaustion here is a prudential requirement, rather than mandatory, and his claims fit the well-regarded exceptions to exhaustion requirements. Administrative

exhaustion is not mandatory for the claims C.L.V. brings, and thus the Court may rightly waive them upon a showing that they fall within exceptions to the general rule that a petitioner should seek administrative exhaustion prior to judicial relief. *See, e.g.*, *Garcia v. Noem,* No. 25-CV-02180-DMS-MMP, 2025 WL 2549431 *4–5 (S.D. Cal. Sept. 3, 2025). Here "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [and] irreparable injury will result . . ." absent a judicial ruling, and thus waiving administrative exhaustion is appropriate. *See Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Requiring further administrative proceedings here would be both futile and lead to irreparable harm.

61. First, C.L.V. demonstrates that his detention is due to a nationwide policy that directs DHS to summarily dismiss pending Section 240 claims to place noncitizens in mandatory detention under expedited removal proceedings, without meaningful bond hearing.

62. Additionally, he demonstrates that, when placed before the relevant immigration officer, he has been denied a hearing and determination on detention based on his individual and particular circumstances in favor of a categorical—and incorrect—interpretation that there is no jurisdiction to provide him bond or parole. Thus, further administrative relief would be futile.

63. Indeed, another court in this district addressed a similar issue considering national policy in *Garcia v. Noem*. There, with petitioners in similar positions, the Court found waiver of administrative exhaustion proper where:

> Respondents take the position that Petitioners, by being in the United States without admission, are "applicants for admission" and are subject to mandatory detention under § 1225(b)(2). The reported July 8, 2025 policy states that any "applicant for admission" is "subject to detention under [§ 1225(b)] and may not be released from ICE custody . . . . These aliens are also ineligible for a custody

> redetermination hearing ('bond hearing') before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS."

2025 WL 2549431 at *5 (internal record citations omitted). This policy, the court found, rendered further administrative proceedings futile as the petitioners would face mandatory detention by policy even after the highest level of administrative appeal. *Id.* Here, the same issue presents itself: as a matter of policy and legal interpretation, DHS considers his detention mandatory. Thus, further proceedings will result only in the same result.

64. Second, C.L.V. will suffer irreparable harm because he will be detained in violation of statute and the Constitution for at minimum the duration of his administrative procedures if required to exhaust remaining administrative remedies. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Hernandez*, 872 F. 3d. at 994–95 (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). C.L.V. has pleaded unconstitutional detention. Every day spent in unlawful detention is one spent free that he can never recover. Requiring further exhaustion achieves only more time spent in detention for an administrative result that is, as discussed, foregone based upon DHS's unlawful mandatory detention policies.

65. Therefore, C.L.V. meets two recognized exceptions to exhaustion requirements and should not be made to seek further administrative remedies before filing here.

VI. Prayer for Relief

66. For the reasons set forth, Petitioner respectfully requests that this Court:

a. **ASSUME** jurisdiction over this matter;

b. **ISSUE** a writ of *habeas corpus*, within three days of filing this Petition, ordering C.L.V.'s immediate release; and

c. **ORDER** pursuant to the All Writs Act, 28 U.S.C. § 1651, that Respondents not cause Petitioner's re-detention during pendency of his Section 240 proceedings without the Court's prior leave. *See, e.g.*, *Noori*, 2025 WL 2800149 at *14; *Y-Z L-H*, 2025 WL 1898025 at *14.

d. In the alternative, **ORDER** Respondents to show cause, within three days of filing this Petition, why the relief Petitioner seeks should not be granted; and **SET** a hearing on this matter within five days of Respondents' return on the order to show cause, pursuant to 28 U.S.C. § 2243.

e. **GRANT** Petitioner attorneys' fees.

Verification: Pursuant to 28 U.S.C. § 2242, I, the undersigned acting on Petitioner's behalf, verify under penalty of perjury that all facts stated herein are true and correct to the best of my knowledge and belief.

Dated: October 20, 2025

SINGLETON SCHREIBER, LLP,

/s/ Liam S. Barrett

Kimberly S. Hutchison
Liam S. Barrett
Attorneys for Plaintiff