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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Majid MOHAMMAD BEIGI,

Petitioner-Plaintiff,

v.

Christopher J. LAROSE, Senior Warden, Otay Mesa Detention Center, San Diego, California;
Joseph FREDEN, Acting Field Office Director, San Diego Office of Detention and Removal, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security;
Todd M. LYONS, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;
Sirce OWEN, Acting Director for Executive Office for Immigration Review;
Kristi NOEM, Secretary, U.S. Department of Homeland Security;
Pam BONDI, Attorney General of the United States;

Respondents-Defendants.

Case No.: '25CV3193 DMS MMP

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration Under Color of Immigration Detention Statutes; Request for Declaratory and Injunctive Relief

Agency File No [redacted]

Petitioner MAJID MOHAMMAD BEIGI petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

INTRODUCTION

1. Petitioner, MAJID MOHAMMAD BEIGI ("Mr. MOHAMMAD BEIGI" or "Petitioner"), by and through his undersigned counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief to compel his immediate release from immigration detention where he has been held by the U.S. Department of Homeland Security (DHS) since being unlawfully re-detained on July 10, 2025, without first being provided a due process hearing to determine whether his incarceration is justified. Petitioner was previously released on or about October 27, 2022 by DHS pursuant to an Immigration Judge's order of $2,500.00 bond payment pursuant to INA section 236.

2. Petitioner further submits this habeas petition under 28 U.S.C. § 2241 for a judicial check on Respondents' administrative decisions to detain him under 8 U.S.C. § 1225(b)(2), INA § 235(b)(2), despite the authority to do so in that Petitioner is not an applicant for admission nor is he seeking admission. And because the government purports to hold him under § 1225(b)(2), it has not provided him with an individualized bond hearing to challenge his detention under 8 U.S.C. § 1226(a), INA § 236(a), contravening his rights under the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause.

3. Petitioner seeks declaratory and injunctive relief to compel his immediate release from the immigration jail where he has been held by the U.S. Department of Homeland Security (DHS) since being unlawfully re-detained on July 10, 2025, without first being provided a due process hearing to determine whether his incarceration is justified.

4. Absent review in this Court, no other neutral adjudicator will examine Petitioner's plight: Respondents will continue to detain Petitioner in violation of the law essentially indefinitely. Petitioner thus urges this Court to review the lawfulness of his detention; declare that his detention under 8 U.S.C. § 1225(b)(2) is unlawful; order either his immediate release or that, at a minimum, Respondents provide him a bond hearing complying with the procedural requirements in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

5. Petitioner must be released from custody unless and until DHS proves to a neutral adjudicator, by clear and convincing evidence, materially changed circumstances (including that he is a flight risk and/or a danger to the community) that would justify cancelling Petitioner's release from ICE custody on or about October 27, 2022 pursuant to an Immigration Judge's order of $2,500.00 bond payment pursuant to INA section 236, after a determination that he was neither a flight risk nor a danger to the community that he could not be released after payment of a $2,500.00 bond.

6. The Due Process clause of the Fifth Amendment, as well as statutory and regulatory authorities, require the government to provide noncitizens with notice and a hearing prior to re-detention. Here Petitioner's rights were violated and continue to be each day he is detained.

STATEMENT OF FACTS

7. Mr. Majid MOHAMMAD BEIGI (Petitioner) is an Iranian citizen born in Tehran, Iran.

8. Petitioner was born to a Muslim father; therefore, based on the Sharia law, he was considered Muslim. However, he never felt comfortable identifying herself as a Muslim.

9. Petitioner also has strongly opposed the Iranian regime and has participated in anti-government protests, including in one where the police and national guard attacked the University of Tehran and its dorms and killed at least one of the students due to the uprising protest against the Islamic regime by the students. Petitioner was identified by the police and fled to Pakistan to avoid imprisonment. However, the police raided his father's office to ask about his whereabouts. The pressure caused his father to experience a heart attack, and half of his body became disabled.

10. While in Pakistan, Petitioner began participating in church activities and Bible studies and decided to convert to Christianity. But because of his father's health condition, he had to return to Iran. Petitioner was arrested in his house and was imprisoned for a year. He was released after he was whipped 80 times and paid fines.

11. After being released from prison, Petitioner could not obtain any job or attend any university because of his prior political convictions and therefore fled Iran.

12. In 2017, when Petitioner returned to Iran to visit his severely ill mother, he was arrested at the airport. transferred to Evin prison, known as "The Notorious Terror Prison." He had received a seven-year sentence while he was abroad for "War Against the National Security" and "Encouraging people to Christianity." Petitioner spent three years

in prison and was released on the condition that if he committed another political crime, he would spend the remaining of his sentencing. However, Petitioner did not abide by said conditions and continued his political activities, including participation in a live TV program as a guest. He was asked what his wish is, and he answered to see a day when every person in Iran free to practice their own religion. The live show was disconnected after the heated conversation between Petitioner and the interviewer.

13. On the same night, the pro-government paramilitary attacked his restaurant, set it on fire, and shot at the respondent. The next day, the police raided his office and arrested the respondent. Petitioner spent 45 days in Evin prison. He was in solitary confinement and was given a blanket full of bedbugs. Bedbugs injured his whole body. His mother bailed him out. Twenty-five days before Petitioner fled from Iran, he received his conviction papers, stating he was convicted to another seven years in prison. Petitioner fled Iran on foot and went to Turkey and ultimately arrived in the U.S. on September 22, 2022, near the Arizona/Mexico border and sought asylum.

14. In about October 2022, after an Asylum Officer conducted Petitioner's credible fear interview and found him to be credible, Petitioner was referred to an Immigration Judge for consideration of his full asylum application in INA Section 240 proceedings.

15. On October 27, 2022, Petitioner was released from ICE custody pursuant to an Immigration Judge's order of $2,500.00 bond payment pursuant to INA section 236, after a determination that he was neither a flight risk nor a danger to the community that he could not be released after payment of a $2,500.00 bond. The venue of Petitioner's

proceedings was ultimately changed to Van Nuys Immigration Court as that is where Petitioner settled following his release.

16. While in removal proceedings, Petitioner timely filed his asylum application and, in the meantime, on May 22, 2024, he married a U.S. Citizen who filed an alien relative petition for Petitioner, and while his proceedings were still pending, Petitioner applied for adjustment of status to a permanent resident (Green Card). On July 10, 2025, when Petitioner and his 6-month-pregnant wife attended his prescheduled adjustment interview, Petitioner was re-arrested at the USCIS office.

17. Since his 2023 release from ICE custody pursuant to an Immigration Judge's order of $2,500.00 bond payment pursuant to INA section 236, Petitioner had been living in Los Angeles and building community ties there. At the time of his re-arrest on July 10, 2025, Petitioner owned and managed a Persian restaurant and regularly attended church. He is married to a U.S. citizen and they now have a three-week-old baby who Petitioner has yet to meet. Although on October 10, 2024, Petitioner was arrested in connection with a domestic incident, the Los Angeles County District Attorney's Office, Van Nuys branch declined to file charges against Petitioner in connection with that incident.

18. Following Petitioner's rearrest on July 10, 2025, he was transferred to the Otay Mesa Detention Center and venue was transfer to the Otay Mesa Immigration Court, where proceedings are continuing.

19. While detained at the Otay Mesa Detention Center, Petitioner requested a custody redetermination hearing before the Immigration Judge and on August 1, 2025, the IJ declined to accept jurisdiction and denied bond.

20. Petitioner has now lived for over two years in the United States and has built extensive community ties. Other than his aforementioned October 10, 2024 arrest, he has had no encounters with the immigration system nor the criminal justice system prior and to date, he has never been convicted of any crime.

21. Petitioner suffers from anxiety, ADHD, and high blood pressure and is currently seeking treatment for those conditions while in detention.

CUSTODY

22. Petitioner is currently in Respondents' legal and physical custody. They are detaining him at the at the Otay Mesa Detention Center in San Diego, California. CoreCivic, Inc., a Maryland corporation, operates that facility. He is under Respondents' and their agents' direct control. Prior to his arrest and re-detention Petitioner was not provided with a constitutionally and statutorily compliant bond hearing.

JURISDICTION

23. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in Respondents' custody under the United States' color of authority, and such custody violates the United States' Constitution, laws, or treaties. Its jurisdiction is not limited by a petitioner's nationality, status as an immigrant, or any other classification. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl. 2; U.S. CONST. amends. V and VIII; 28 U.S.C. §§ 1361 (mandamus), 1651 (All Writs Act), 2241 (habeas corpus).

24. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner's detention and his challenge to being subjected to mandatory detention under Section 1225(b)(2). Federal district courts possess broad authority to issue writs of habeas corpus when a person is held "in custody in violation of the Constitution or laws or treaties of the United States" (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that survived the REAL ID Act's jurisdictional restrictions. Because Petitioner seeks the traditional habeas remedy of release from allegedly unlawful detention rather than additional administrative review of his underlying claims, his petition presents precisely the type of threshold legality-of-detention question that § 2241 was designed to address. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *see also Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh,* 638 F.3d at 1211-12)). And no court has ruled on the legality of Petitioner's detention.

REQUIREMENTS OF 28 U.S.C. § 2243

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

26. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the

most important writ known to the constitutional law of England, 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).

27. Habeas corpus must remain a swift remedy. Importantly, "the statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action creating the perception "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id.*

VENUE

28. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees or officers of the United States, acting in their official capacity; because a substantial part of the events or omissions giving rise to the claim occur in San Diego County in the Southern District of California where Petitioner is currently detained, and because there is no real property involved in this action.

INTRADISTRICT ASSIGNMENT

29. The decision to re-arrest and re-detain Petitioner was made by the Los Angeles office of ICE, and until he was unlawfully re-detained by ICE, his case was pending before the Van Nuys Immigration Court, in Van Nuys, California. He was then transferred to the Otay Mesa Detention Center in San Diego, California and after he was

detained, his hearing venue was changed to the Otay Mesa Immigration Court, which assumed jurisdiction over his case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

30. In habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (*quoting Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)). Petitioner asserts that exhaustion should be waived because administrative remedies are (1) futile and (2) his continued detention results in irreparable harm.

31. Pursuant to the Board's recent precedential decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), an immigration judge would not take jurisdiction over any custody redetermination hearing. Per those decisions, contravening decades of law and practice by Respondents, Petitioner is erroneously deemed an applicant for admission ineligible for a bond hearing before an immigration judge (IJ).

32. No statutory exhaustion requirements apply to Petitioner's claim of unlawful custody in violation of his due process rights, and there are no administrative remedies that he needs to exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d

1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

33. Exhausting administrative remedies here is futile because Respondents contend Petitioner is subject to mandatory detention. As such, no request to release Petitioner from custody would be considered by ICE. Moreover, Immigration Judges in this district claim to have no jurisdiction to conduct a custody redetermination hearing as to individuals procedurally situated like Petitioner. Indeed, in contravention to the INA and long-standing precedent and practice, the Board of Immigration Appeals and Attorney General have deemed no noncitizen eligible for bond before an immigration judge (with the exception of noncitizens who entered the U.S. on a visa). As such, any attempts to exhaust administrative remedies would be entirely futile.

34. More importantly, every day that Petitioner remains detained causes him harm that cannot be repaired. His continued detention puts his physical and mental health at greater risk, further warranting a finding of irreparable harm and the waiver of the prudential exhaustion requirement. The Court must consider this in its irreparable harm analysis of the effects on Petitioner as her detention continues. *See De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020) (noting that the petitioner "continues to suffer significant psychological effects from his detention, including anxiety caused by the threats of other inmates and two suicide attempts," in

finding that petitioner would suffer irreparable harm warranting waiver of exhaustion requirement).

35. Health concerns are one factor the Court should consider in its irreparable harm analysis of the effects on Petitioner as his detention continues. *See De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020) (noting that the petitioner "continues to suffer significant psychological effects from his detention, including anxiety caused by the threats of other inmates and two suicide attempts," in finding that petitioner would suffer irreparable harm warranting waiver of exhaustion requirement).

36. Petitioner has exhausted his administrative remedies. While detained at the Otay Mesa Detention Center, Petitioner requested a custody redetermination hearing before the Immigration Judge and on August 1, 2025, the IJ declined to accept jurisdiction and denied bond.

PARTIES

37. Mr. MAJID MOHAMMAD BEIGI (Petitioner) is an Iranian citizen born in Tehran, Iran. He an asylum seeker from Iran on account of his political opinion and religion.

38. Petitioner is currently in Respondents' legal and physical custody at the Otay Mesa Detention Center in San Diego, California. CoreCivic, Inc., a Maryland corporation, operates that facility.

39. Respondent JOSEPH FREDEN is the Acting Field Office Director of ICE in San Diego, California and is named in his official capacity. ICE is the component of DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

40. Respondent TODD M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Petitioner.

41. Respondent SIRCE OWEN is the Acting Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond hearings. Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings. She is sued in her official capacity

42. Respondent KRISTI NOEM is the Secretary of the DHS and is named in her official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In her capacity as Secretary, Respondent Noem has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107

Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent Noem is the ultimate legal custodian of Petitioner.

43. Respondent PAM BONDI is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

44. Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention Center where Petitioner is being held. Respondent Christopher LaRose oversees the day-to-day operations of the Otay Mesa Detention Center and acts at the Direction of Respondents Freden, Lyons, Sirce and Noem. Respondent Christopher LaRose is a custodian of Petitioner and is named in their official capacity.

LEGAL FRAMEWORK AND ANALYSIS

45. The Due Process clause of the Constitution, Congress's statutes and implementing regulations as well as precedential decisions narrow DHS's authority to unilaterally revoke any noncitizen's immigration bond or conditional parole and re-arrest the noncitizen at any time, 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9).

46. ICE can release a noncitizen from custody after the noncitizen "demonstrate[s] to the satisfaction of the officer that such release would not pose a danger to property or persons" and that the noncitizen is "likely to appear for any future proceeding." § 1236.1(c)(8).3 "Release [therefore] reflects a determination by the government that the

noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), aff'd sub nom. *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

47. Petitioner was previously released on or about October 27, 2022 by DHS pursuant to an Immigration Judge's order of $2,500.00 bond payment pursuant to INA section 236.

48. Respondents now purport to hold Petitioner under 8 U.S.C. § 1225(b)(2) since July 10, 2025, despite lacking authority to hold him under § 1225(b)(2), and without giving him an individualized bail hearing before a neutral adjudicator under § 1226(a). That violates Petitioner's rights under the INA, the APA and the Fifth Amendment's Due Process Clause.

49. Petitioner was arrested and is detained despite Respondents failing to provide him notice and a pre-deprivation hearing before a neutral arbiter demonstrating materially changed circumstances justifying his re-detention, and despite the fact that he is not an applicant for admission seeking admission to the United States as required by Section 1225(b)(2). Instead, Petitioner has been residing in the U.S. for over two years and as such is subject to Section 1226(a).

Statutory Framework Regarding Detention – Section 1225 and Section 1226

50. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. § 1229a.

51. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in § 1229a removal proceedings before an immigration judge (IJ). Individuals covered by § 1226(a) detention

are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while certain noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. See 8 U.S.C. § 1226(c).

52. Second, the INA provides for mandatory detention of noncitizens subject to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. See 8 U.S.C. § 1225(b)(2).

53. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. See 8 U.S.C. § 1231(a)–(b).

54. This case partly concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).

55. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

56. Following the enactment of the IIRIRA, EOIR drafted new regulations applicable to proceedings before immigration judges explaining that, in general, people who entered the country without inspection – also referred to as being "present without admission" – were not considered detained under § 1225 and that they were instead detained under §

1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

57. Thus, in the decades that followed, most people who entered without inspection and were placed in standard § 1229a removal proceedings received bond hearings before IJs, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

58. This practice both pre- and post-enactment of IIRIRA is consistent with the fact that noncitizens present within the United States – as opposed to noncitizens at the border seeking admission – have constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

59. This year the Board issued two decisions abruptly departing from not only the plain language of Sections 1225 and 1226 but also contravening decades of practice as well as Ninth Circuit and Supreme Court precedent.

60. On May 15, 2025, the Board issued *Matter of Q Li*, 29 I&N Dec. 66 (BIA 2025) stating that an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently

placed in removal proceedings is detained under 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under 8 U.S.C. § 1226(a).

61. On September 5, 2025, the Board issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) stating that all noncitizens who entered without inspection are applicants for admission and are subject to mandatory detention under Section 1225(b)(2).

62. The overwhelming majority of district courts across the country (including this Court), however, have rejected the BIA's decisions in *Matter of Q Li* and *Matter of Yajure Hurtado*. Courts have instead held that Section 1225 governs detention of noncitizens who are at the border "seeking admission" to the United States, while Section 1226 governs those within the United States.

63. Indeed, the Board's decisions in *Matter of Q Li* and *Matter of Yajure Hurtado* conflict with not only the plain reading of Sections 1225 and 1226 but are also contrary to Ninth Circuit and Supreme Court precedent.

64. The Supreme Court has explained that Section 1226 is the "default rule" and "applies to aliens already present in the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 288, 301 (2018). Moreover, section 1225(b) "applies primarily to aliens seeking entry into the United States" and authorizes DHS to "detain an alien without a warrant at the border." *Jennings*, 583 U.S. at 297, 302.

65. In *Torres v. Barr*, 976 F.3d 918, 926 (9th Cir. 2020), the en banc Court held that "the phrase 'at the time of application for admission'…refers to the particular point in time when a noncitizen submits an application to physically enter into the United States."

976 F.3d at 924. The Ninth Circuit held that "inadmissibility must be measured at the point in time that an immigrant actually submits an application for entry into the United States." *Torres v. Barr*, 976 F.3d at 923. Under section 212(a)(7), a noncitizen only makes an application for admission when they seek permission to physically enter the United States. Id. at 924.

66. In short, *Torres* clarified there is a temporal limitation to a classification of applicant for admission. See *United States v. Gambino-Ruiz*, 91 F.4th 981, 989 (9th Cir. 2024) (stating that "Torres merely rejected the view that an alien remains in a perpetual state of applying for admission").

67. In sum, Petitioner is not detained under Section 1225 because he is not an applicant for admission per Supreme Court and Ninth Circuit precedent, nor is he "seeking admission" to the United States. As such, he is subject to Section 1226(a). This is consistent with the conditional release provided to Petitioner after he entered without inspection and was released into the U.S. over two years ago.

Materially Changed Circumstances – Right to a Hearing Prior to Re-incarceration.

68. The Board of Immigration Appeals has clearly identified limits to DHS's authority to re-detain noncitizens: "where a previous bond determination has been made by an immigration judge, no change should be made by [the DHS] absent a change of circumstance," a position adopted by the Ninth Circuit. *Matter of Sugay*,17 I. & N. Dec.

637, 640 (BIA 1981); *see also Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021)("Thus, absent changed circumstances … ICE cannot re-detain Panosyan.").

69. The government has further clarified in litigation that the showing of changed circumstances applies "both where the prior bond determination was made by an immigration judge *and* where the previous release decision was made by a DHS officer." *Saravia v. Barr*, 280 F. Supp. 3d at 1197 (emphasis added).

70. Further, DHS has in practice limited its authority and "generally only re-arrests [noncitizens] pursuant to § 1226(b) after a *material* change in circumstances," not just any changed circumstances. *Id.* (quoting Defs.' Second Supp. Br. at 1, Dkt. No. 90) (emphasis added).

71. Guidance from *Matter of Sugay* and DHS practice alone —that ICE should not re-arrest a noncitizen absent changed circumstances— are insufficient to protect Petitioner's weighty interest in his freedom from detention. Federal district courts in California have repeatedly recognized that the demands of due process and the limitations on DHS's authority to revoke a noncitizen's bond or parole require a pre-deprivation hearing for a noncitizen on bond, like Petitioner, before ICE re-detains him, to comport with the Due Process clause of the Constitution. *See, e.g.*, *Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021)

72. Just in the last few months, several federal courts in California have agreed that immigration re-detention after being released in the community warrants a hearing. *See Diaz v. Kaiser,* No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025); *Singh v. Andrews*, No. 1:25-CV-00801, 2025 WL 1918679 (E.D. Cal. July 11, 2025); *Pinchi v. Noem*, —— F. Supp. 3d ——, ——, No. 5:25-cv-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Victor Amado Rodriguez-Flores v. F. Semaia et al., No. CV 25-6900 JGB (JCX), 2025 WL 2684181* (C.D. Cal. Aug. 14, 2025).

73. It follows that prior to re-detaining Petitioner who had previously been released pursuant to 8 U.S.C. § 1226(b), DHS should have provided him with a pre-detention hearing and notice of such hearing at which DHS had the burden of proving that Petitioner's conditional parole should be canceled.

74. Instead, Respondents unlawfully re-arrested and re-detained Petitioner without having an immigration judge or a neutral adjudicator assess whether circumstances have materially changed since his release his release on or about October 27, 2022 by DHS pursuant to an Immigration Judge's order of $2,500.00 bond payment pursuant to INA section 236.

Petitioner's due process rights

75. The government cannot deprive any person of "life, liberty, or property, without due process of law[.]" U.S. Const. Amend. V. Due process extends to "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

A. Petitioner's Liberty Interest is protected

76. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

77. A continued liberty interest also exists where an individual was detained and is subsequently released, even if conditionally released and even when an initial decision to detain or release the individual is discretionary. *Morrissey v. Brewer*, 408 U.S. 471, 481-82 (1972). "[S]ubject to the conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life." *Id.* at 482. The parolee relies "on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* The Court explained that "the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the parolee and often others." *Id.* In turn, "[b]y whatever name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment." *Morrissey*, 408 U.S. at 482; *see also Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that individuals placed in a pre-parole program created to reduce prison overcrowding have a protected liberty interest requiring pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973) (holding that individuals released on felony probation have a protected liberty interest requiring pre-deprivation process).

78. As the First Circuit has explained, when analyzing the issue of whether a specific conditional release rises to the level of a protected liberty interest, "[c]ourts have resolved the issue by comparing the specific conditional release in the case before them with the liberty interest in parole as characterized by *Morrissey*." *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated") (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

79. The protectable liberty interest created by conditional parole also applies to immigration detention. "[T]he government's discretion to incarcerate non-citizens is always constrained by the requirements of due process." *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). "Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond."). *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019). Even where "a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest." *Id.* at 970 (N.D. Cal. 2019); *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022).

80. The protected liberty interest is even more substantial when balancing the nonpunitive purpose of immigration detention against the "irreparable harms imposed on anyone subject to immigration detention," including "subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

81. "[R]elease from ICE custody constitute[s] an 'implied promise' that [the noncitizen's] liberty would not be revoked unless she 'fail[s] to live up to the conditions of her release.' The regulatory framework makes clear that those conditions [a]re that [the noncitizen] remain[s] neither a danger to the community nor a flight risk. *Pinchi v. Noem*, —— F. Supp. 3d ——, ——, No. 5:25-cv-05632-PCP, 2025 WL 2084921, at *8 (N.D. Cal. July 24, 2025) (citing *Morrissey*, 408 U.S. at 482).

82. A noncitizen released from custody pending removal proceedings therefore has a protected liberty interest in remaining out of custody. *See Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025); *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6,2022); *see also Ramirez Clavijo v. Kaiser*, 25-cv-06248-BLF, at 6 (N.D. Cal. Aug. 21, 2025)(gathering cases).

83. Petitioner has a substantial liberty interest in not being detained. He has been living in the United States for over two years, is now married to a U.S. citizen and is the father of a newborn baby, has been working and supporting himself and his family, and has developed extensive community ties.

B. Petitioner's Liberty Interest Mandated a Hearing Before any Re-Arrest and Revocation of Parole

84. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must "balance [Petitioner's] liberty interest against the [government's] interest in the efficient administration of" its immigration laws in order to determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357.

85. The three-factor *Mathews* test (adopted by the Court of Appeals for the Ninth Circuit, *see Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022)), helps the Court assess adequate safeguards: "[F]irst, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

86. The Due Process Clause typically requires a hearing of some sort before the government may deprive a person of liberty. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (*see also United States v. Raya-Vaca*, 771 F.3d 1195, 1204 (9th Cir. 2014) ("Due

process always requires, at a minimum, notice and an opportunity to respond."). Post-deprivation remedies may satisfy the requirements of due process only in a "special case" where they are "the only remedies the State could be expected to provide" and where "one of the variables in the *Mathews* equation—the value of post deprivation safeguards—is negligible in preventing the kind of deprivation at issue" such that "the State cannot be required constitutionally to do the impossible by providing post deprivation process." *Zinermon*, 494 U.S. at 985.

1. Petitioner has a substantial liberty interest in staying out of detention

87. An individual's interest in not being detained is "the most elemental of liberty interests[.]" *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). This liberty interest also exists where ICE decides to unilaterally nullify its own prior parole decision and take away his physical freedom, *i.e.*, his "constitutionally protected interest in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). Courts have routinely agreed that "a petitioner's interest in remaining out of custody as 'substantial.'" *Rodriguez-Flores v. Semaia*, No. 2:25-CV-06900, at *5 (C.D. Cal. Aug. 14, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025)). The longer the individual has been released, the more important his liberty interest grows. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

2. There is a risk of erroneous deprivation that the additional procedural safeguard of a pre-detention hearing would help protect against.

88. Even if the Government believes "it has a valid reason" to re-detain noncitizens, it "does not eliminate its obligation to effectuate the detention in a manner that comports with due process." *Guillermo M.R. v. Kaiser*, —— F. Supp. 3d ——, ——, No. 25-cv-05436-RFL, 2025 WL 1983677, at *7 (N.D. Cal. July 17, 2025) (finding "undeniably stark" risk of erroneous deprivation where the Government contends that "notwithstanding a neutral arbiter's determination that Petitioner should be released, ICE is entitled to unilaterally terminate the IJ's order by re-detaining Petitioner without a hearing for at least six months, based on ICE's own determination in its sole discretion that additional conditions of release unilaterally set by ICE had been violated"); *see also Singh v. Andrews*, No. 1:25-CV-00801, 2025 WL 1918679 (E.D. Cal. July 11, 2025).

89. Where the petitioner "has not received any bond or custody … hearing, the risk of an erroneous deprivation [of liberty] is high because neither the government nor [Petitioner] has had an opportunity to determine whether there is any valid basis for her detention." *Pinchi v. Noem*, —— F. Supp. 3d ——, ——, No. 5:25-cv-05632-PCP, 2025 WL 2084921, at *8 (N.D. Cal. July 24, 2025) (citation omitted). A pre-detention hearing significantly decreases that risk because the government has to prove to a neutral adjudicator by clear and convincing evidence that circumstances have materially changed to justify re-detention, and a hearing is likelier to produce accurate determinations regarding factual disputes, such as whether a certain occurrence constitutes a "changed

circumstance." *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir.1989) (when "delicate judgments depending on credibility of witnesses and assessment of conditions not subject to measurement" are at issue, the "risk of error is considerable when just determinations are made after hearing only one side").

90. Further, the risk of an erroneous deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes custody determinations. *Diouf v. Napolitano* ("*Diouf II*"), 634 F.3d 1081, 1091-92 (9th Cir. 2011); *see also Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006) ("A neutral judge is one of the most basic due process protections.")

91. Any argument that noncitizens can request a custody determination hearing once re-detained goes against the due process safeguards envisioned in the Constitution, because such hearing happens after the fact and cannot prevent an erroneous deprivation of liberty. *Domingo v. Kaiser*, No. 25-cv-05893 (RFL), 2025 WL 1940179, at *3 (N.D. Cal. July 14, 2025) ("Even if Petitioner-Plaintiff received a prompt post-detention bond hearing under 8 U.S.C. § 1226(a) and was released at that point, he will have already suffered the harm that is the subject of his motion: that is, his potentially erroneous detention."). Further, custody determination hearings are routinely conducted in immigration court and this is not a "special case" that warrants post-deprivation remedies because other remedies are impractical the way it was in *Zinermon*.

92. Consequently ICE was required to provide Petitioner with notice and a hearing *prior* to any re-incarceration and revocation of his conditional parole. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in jail pending the determination as to whether they can ultimately be recommitted). Under *Mathews*, "the balance weighs heavily in favor of [Petitioner's] liberty" and required a pre-deprivation hearing before a neutral adjudicator, which ICE failed to provide.

93. Further, immigration detention is civil (as opposed to criminal), and its primary purpose is to ensure a noncitizen's appearance during removal proceedings and protect against danger to the community; it cannot be punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690, 697 (2001). Due process thus also requires consideration of alternatives to detention at any custody redetermination hearing that may occur, and where alternatives to detention that could mitigate risk of flight exist, detention is not warranted. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). In fact here Petitioner was released on a $1.500.00 Immigration Judge bond and has since then complied with the conditions of his release.

3. The government's interest in detaining Petitioner is minimal, and in fact the procedural requirements of a hearing would promote judicial and administrative efficiency given the government's limited resources

94. The efficient allocation of the government's limited fiscal resources further supports holding a hearing prior to re-detaining noncitizens. The "fiscal and

administrative burdens" as a result of the due process safeguard are nonexistent. *See Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976). Indeed, the Ninth Circuit has long recognized that "[t]he costs to the public of immigration detention are 'staggering,'" *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017); *Diaz*, 2025 WL 1676854, at *3. In 2017 – with inflation numbers are likely higher today– immigration detention cost "$158 each day per detainee, amounting to a total daily cost of $6.5 million." *Hernandez*, 872 F.3d at 996. On the other hand, "[i]n immigration court, custody hearings are routine and impose a minimal cost." *Pinchi v. Noem*, — F. Supp. 3d ——, ——, No. 5:25-cv-05632-PCP, 2025 WL 2084921, at *10 (N.D. Cal. July 24, 2025) (citing *Singh v. Andrews*, No. 1:25-CV-00801, 2025 WL 1918679, at *8 (E.D. Cal. July 11, 2025)). The cost of re-detaining an immigrant who was previously released "pending any bond hearing would significantly exceed the cost of providing [the immigrant] with a pre-detention hearing." *Pinchi*, 2025 WL 2084921, at *10.

95. ICE's new policy to make a minimum number of arrests each day under the new administration[1] does not constitute a material change in circumstances and cannot stand to replace regulations enacted by Congress that allow the release of noncitizens in the first place. It is "arbitrary, capricious [and] an abuse of discretion" "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C). Even if the government "ultimately demonstrates to a neutral decisionmaker by clear

[1] *See* "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (January 26, 2025), available at: https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/.

and convincing evidence that her detention is necessary to prevent danger to the community or flight," then the only potential injury the government faces is a short delay in detaining" Petitioner. *Pinchi*, 2025 WL 2084921, at *12. "Faced with … a conflict between minimally costly procedures and preventable human suffering, [the Court has] little difficulty concluding that the balance of hardships tips decidedly in plaintiff['s] favor." (internal citations omitted). *Id.*

96. Consequently the government's interest in keeping Petitioner in detention without a due process hearing is outweighed by Petitioner's significant private interest in his liberty. The scale tips sharply in favor of releasing Petitioner from custody unless and until the government demonstrates by clear and convincing evidence that he is a flight risk or danger to the community. It becomes abundantly clear that the *Mathews* test favors Petitioner when the Court considers that the process Petitioner seeks—release from custody pending notice and a hearing regarding whether his bond should be revoked and, if so, whether a new bond amount should be set—is a standard course of action for the government. In the alternative, providing Petitioner with a hearing before this Court (or a neutral decisionmaker) to determine whether there is clear and convincing evidence that Petitioner is a flight risk or danger to the community would impose only a *de minimis* burden on the government, because the government routinely provides this sort of hearing to detained individuals like Petitioner.

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FIRST CAUSE OF ACTION

Statutory Violation - Petitioners' Detention is in Violation of 8 U.S.C. § 1226(a)-(b)

97. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, the allegations in the paragraphs above.

98. Respondents lack statutory authority to detain Petitioner under 8 U.S.C. § 1225(b)(2), because that statute requires that the individual be an applicant for admission and seeking admission to the U.S.

99. As Petitioner does not meet these criteria, his detention must be governed by 8 U.S.C. § 1226(a) which provides discretionary detention authority and requires ICE to make an individualized custody determination.

100. Under § 1226(a), individuals may be detained as a matter of discretion, released on their own recognizance, or released on bond of at least $1,500.

101. Respondents' failure to apply the correct statutory framework violates the INA and exceeds the government's detention authority.

102. Thus, Petitioner respectfully requests that this Court order his release from detention under 8 U.S.C. § 1226(a), INA § 236(a), for the duration of his removal proceedings under 8 U.S.C. § 1229a, INA § 240. Alternatively, he requests that this Court order a constitutionally adequate bond hearing complying with the procedural requirements in *Singh*.

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SECOND CLAIM FOR RELIEF
Due Process
U.S. Const. amend. V

103. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

104. Petitioner's continued detention without any bond hearing violates his right to due process under the Fifth Amendment.

105. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment— from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

106. Petitioner has a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without a hearing before this Court. *See Morrissey v. Brewer*, 408 U.S. 471, 487-88 (1972).

107. Petitioner's re-arrest without a hearing violated the Constitution both substantively, because Respondents have no valid interest in detaining him since circumstances have not changed, and procedurally, because he was not provided with a pre-detention hearing.

THIRD CLAIM FOR RELIEF
Petitioner's Detention Violates the Administrative Procedure Act, 5 U.S.C. § 706(2)

108. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

109. Under the Administrative Procedures Act ("APA"), an agency must act in a manner that is not arbitrary or capricious. See 5 U.S.C. § 706(2)(A) (directing courts to "hold unlawful and set aside agency action" that is arbitrary and capricious); *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (requiring an agency to articulate a "satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made").

110. A court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

111. Respondents' detention of Petitioner pursuant to § 1225(b)(2) is arbitrary and capricious. Respondents' detention of Petitioner violates the INA and the Fifth Amendments. Respondents do not have statutory authority under § 1225(b)(2) to detain Petitioner. Respondents' re-detention of Petitioner pursuant to ICE's new policy and quotas is in direct contradiction with Congress's intent when enacting regulations and the INA, and long-established case law. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17 I&N Dec. 647, 640 (BIA 1981).

112. Petitioner's detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

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PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue the writ of habeas corpus and order Respondents to show cause, within three days of Petitioner's filing this petition, why the relief he seeks should not be granted; and set a hearing on this matter within five days of Respondents' return on the order to show cause (*see* 28 U.S.C. § 2243);

(3) Enjoin Respondents from transferring Petitioner outside the jurisdiction of the Southern District of California pending the resolution of this case;

(4) Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner on the conditions of his prior conditional parole;

(5) Alternatively conduct an immediate bond hearing before this Court where DHS bears the burden of justifying Petitioner's continued detention by clear and convincing evidence and the Court takes into consideration alternatives to detention and Petitioner's ability to pay a bond;

(6) Alternatively, order an immediate bond hearing before a neutral decisionmaker where DHS bears the burden of justifying Petitioner's continued detention by clear and convincing evidence and where alternatives to detention and Petitioner's ability to pay a bond are considered;

(7) Award reasonable costs and attorney fees under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;

(8) Grant such further relief as the Court deems just and proper.

Dated: November 18, 2025

Respectfully submitted,

By: /s/ Bashir Ghazialam
Bashir Ghazialam
Attorneys for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition and have reviewed his immigration file. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this November 18, 2025, in San Diego, California.

/s/ Bashir Ghazialam
Bashir Ghazialam
Attorney for Petitioner