Bashir Ghazialam (CA Bar No. 212724)
Kirsten Zittlau (CA Bar No. 220809)
LAW OFFICES OF BASHIR GHAZIALAM
P.O. Box 928167
San Diego, California 92192
Tel: (619) 795-3370
Fax: (866) 685-4543
bg@lobg.net
zittlaulaw@gmail.com

Attorneys for Petitioner

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Ruhai SHEN,

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.: '25CV3235 GPC BLM

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 RUHAI SHEN 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, RUHAI SHEN ("Mr. Shen" or "Petitioner"), is a Chinese man detained at the Otay Mesa Detention Center in San Diego, California. 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 October 7, 2025, without first being provided a due process hearing to determine whether his incarceration is justified. Petitioner was previously released on December 27, 2023, by DHS on conditional parole pursuant to INA section 236 (8 U.S.C. § 1226) after a determination that he was neither a flight risk nor a danger to the community.

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 October 7, 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 him 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, material 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 December 27, 2023 on conditional parole pursuant to INA section 236 (8 U.S.C. § 1226) after a determination that he was neither a flight risk nor a danger to the community.

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. Shen is a Christian man from China. He fled China due to being persecuted on account of practicing his Christian religion.

8. Mr. Shen was arrested, imprisoned and beaten by the Chinese police for the alleged crime of "organizing a cult." If returned to China, Mr. Shen would have his passport confiscated and would face up to 7 years in prison.

9. Mr. Shen arrived in the United States on December 27, 2023, and entered without inspection and without valid entry documents or a visa. Upon arrival, he flagged down border officials and informed them he had a fear to return to China.

10. After a brief detention of less than 24 hours, he was not referred to a credible fear interview and issued a Notice to Appear (NTA). Since Mr. Shen was also determined to present neither a flight risk nor a danger to the community, he was released on his own recognizance with conditional parole.

11. The Order of Release on Own Recognizance states in pertinent part as follows: "In accordance with Section 236 of the Immigration and Nationality Act…. you are being released on your own recognizance provided you comply with the following conditions…." (conditional parole pursuant to INA section 236 (8 U.S.C. § 1226)).

12. The NTA issued to Mr. Shen states that he is an "alien present in the United States who has not been admitted or paroled" under Section 212(a)(6)(A)(i).

13. Mr. Shen not only complied with all conditions of his release on conditional parole, but he also attended all his court hearings, timely filed his application for asylum,

attended his biometrics appointment, requested / received his work permit, and otherwise obeyed all laws of the United States.

14. On October 7, 2025, Mr. Shen picked up a Lyft passenger from the San Diego Airport. He dropped off the client near the border and was on his way back to downtown San Diego to get more rides when Border Patrol stopped him and arrested him at a checkpoint. Mr. Shen was arrested despite following all traffic and other laws and despite having a valid work permit.

15. Since his release on December 27, 2023, from ICE custody on his own recognizance (conditional parole pursuant to INA section 236 (8 U.S.C. § 1226)), Mr. Shen has no criminal record and there have been no other changed circumstances from the time that he was initially apprehended and released justifying his apprehension. As stated above, he attended all his ICE check-ins and court hearings.

16. Petitioner's proceedings in immigration court are continuing.

17. Petitioner has now lived for two years in the United States and has built extensive community ties. He has had no encounters with the criminal justice system prior to his recent arrest and to date, he has never been convicted of any crime.

CUSTODY

18. 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

19. 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).

20. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner's re-detention without being provided an individualized bail hearing prior to his re-detention and before a neutral adjudicator under § 1226(a), as well as Petitioner's 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.

21. 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

22. 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).

23. 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).

24. 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

25. 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

26. The decision to re-arrest and re-detain Petitioner was made by the San Diego field office of ICE, and until he was unlawfully re-detained by ICE, his case was pending before the 300 N. Los Angeles Street Immigration Court. He was then transferred to Otay Mesa Detention Center in San Diego, California and the venue for his proceedings was then changed to the Otay Mesa Immigration Court .

EXHAUSTION OF ADMINISTRATIVE REMEDIES

27. 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.

28. 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).

29. 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).

30. Exhausting administrative remedies here is futile because Respondents contend Petitioner is subject to mandatory detention. As such, no parole request to release Petitioner from custody would be considered by ICE. Moreover, 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.

31. 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 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).

32. 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).

PARTIES

33. Petitioner Ruhai Shen is a Chinese Christian man who came to the U.S. on December 27, 2023. He entered the U.S. without inspection, was detained for less than a day and was then released on conditional parole. Despite satisfying the conditions of his

conditional parole, filing his asylum application, obtaining his work permit and following all laws of the United States, Mr. Shen was re-detained on October 7, 2025, while working for Lyft.

34. 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.

35. 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.

36. 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.

37. 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.

38. Respondent Kriti 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.

39. 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.

40. 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 and Noem. Respondent Christopher LaRose is a custodian of Petitioner and is named in their official capacity.

LEGAL FRAMEWORK AND ANALYSIS

Statutory Framework Regarding Re-Detention

41. 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).

42. 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).

43. Petitioner was released from ICE custody on December 27, 2023, on conditional parole pursuant to INA section 236 (8 U.S.C. § 1226) after determining he was neither a flight risk nor a danger to the community.

44. Respondents now purport to hold Petitioner under 8 U.S.C. § 1225(b)(2) since October 7, 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.

45. Petitioner was arrested and is detained despite the fact that 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 two years and as such is subject to Section 1226(a).

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

46. 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.").

47. 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).

48. 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).

49. 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)

50. 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 pre-deprivation 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).

51. 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.

52. 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 on December 27, 2023, by DHS on conditional parole pursuant to INA section 236 (8 U.S.C. § 1226).

Petitioner's due process rights

53. 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

54. "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.

55. 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).

56. 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).

57. 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).

58. 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).

59. "[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).

60. 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).

61. Petitioner has a substantial liberty interest in not being detained. He has been living in the United States for two years, has been working and supporting himself and has developed extensive community ties.

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

62. "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.

63. 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).

64. 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

65. 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.

66. 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).

67. 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").

68. 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.")

69. 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*.

70. 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.

71. 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).

//

//

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

72. 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.

73. 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

[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/.

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 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.*

74. 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 conditional parole 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.

Statutory Framework Regarding Detention – Section 1225 and Section 1226

75. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.

76. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

77. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

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

79. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

80. 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 earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

81.Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection 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).

82.Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. 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)).

83.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).

84.On September 5, 2025, the Board of Immigration Appeals issued a precedent decision in *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025), finding that

noncitizens who entered the United States without inspection were ineligible for bond redetermination hearings because they were seeking admission, and fell within 8 U.S.C. § 1225(b)(2)(A).

85. This legal theory espoused by the BIA's decisions in *Matter of Q Li* and *Matter of Yajure Hurtado* that noncitizens who entered the United States without admission or parole are ineligible for bond hearings has been universally rejected by the district courts. *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *9 (W.D. Wash. Sept. 30, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *3 (C.D. Cal. Sept. 8, 2025); *Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO (HC), 2025 WL 2617256, at *9 (E.D. Cal. Sept. 9, 2025); *Vasquez Garcia v. Noem*, 3:25-cv-02180-DMS-MMP (SD. Cal. Sept. 3, 2025); *Benitez v. Noem*, No. 5:25-cv-02190-RGK-AS) C.D. Cal. Aug. 26, 2025); *Arrazola Gonzalez v. Noem*, 5:25-cv-01789-ODW-DFM (C.D. Cal. Aug. 15, 2025); *Maldonado Bautista v. Santacruz,* 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521, at *2 (D. Neb. Sept. 3, 2025); *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670, at *6 (D. Minn. Aug. 27, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025) *Rodriguez v. Bostock,* 2025 WL 1193850 (W.D. Wa. Apr. 24, 2025).

86. The Board's interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

87. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

88. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

89. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

90. 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.

91. 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").

92. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

FIRST CLAIM FOR RELIEF

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

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

94. 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.

95. 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.

96. 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.

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

98. 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*.

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

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

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

101. 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).

102. 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).

103. 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) Unlawful Denial of Bond

104. Petitioner repeats re-alleges and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

105. 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").

106. 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).

107. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

108. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

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 20, 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 reviewed Petitioner's immigration file. Based on said review and 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 20, 2025, in San Diego, California.

/s/ Kirsten Zittlau
Kirsten Zittlau
Attorney for Petitioner