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7 **UNITED STATES DISTRICT COURT FOR**
8 **THE EASTERN DISTRICT OF**
9 **CALIFORNIA**

9 Ashot Ohanyan
10 Petitioner-Plaintiff,

11 v.

12 Warden of California City Detention

13 Minga WOFFORD, Field Office Director, Mesa
14 Verde, Office of Detention and Removal, U.S.
15 Immigrations and Customs Enforcement; U.S.
16 Department of Homeland Security;

17 Sergio ALBARRAN, Acting Field Office Director
18 of the San Francisco Immigration and Customs
19 Enforcement Office

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

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

25 Pam BONDI, in her Official Capacity, Attorney
26 General of the United States;

27 Respondents-Defendants.
28

Case No. 1:25-cv-01661-TLN-SCR

AMENDED PETITION FOR
WRIT OF HABEAS CORPUS
AND COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

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

INTRODUCTION

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3 1. Petitioner, Ashot Ohanyan, by and through his undersigned counsel, hereby files this
4 amended petition¹ for writ of habeas corpus and complaint for declaratory and injunctive relief
5 to prevent the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs
6 Enforcement (ICE) from continuing to detain him in an immigration jail pending resolution of
7 his removal case without first providing him a due process hearing where the government bears
8 the burden to demonstrate to a neutral adjudicator that he is a danger to the community or a
9 flight risk by clear and convincing evidence.

10 2. Mr. Ohanyan is citizen and national of Armenia. He initially came into immigration
11 custody immediately after applying for admission at the San Ysidro Port of Entry on November
12 18, 2024 with his wife. Upon his arrival in the United States, he was detained by the U.S.
13 Border Patrol and he has been detained ever since. His wife was paroled in and released from
14 ICE custody after three days.

15 3. Petitioner is currently detained by Immigration and Customs Enforcement (“ICE”) at the
16 California City detention center pending removal proceedings.

17 4. Petitioner has been detained in immigration custody for close to 14 months even though
18 no neutral decisionmaker—whether a federal judge or immigration judge (“IJ”)—has conducted
19 a hearing to determine whether this lengthy incarceration is warranted based on danger or flight
20 risk.

21 5. Petitioner has languished in detention because ICE has transferred him causing his
22 hearings to be reset to different court calendars, and because of Executive Office of Immigration
23 Review has reset his hearings due to immigration judge firings and personnel changes in the
24 court.

25
26 _____
27 ¹ Petitioner files this First Amended Petition to name the proper custodial respondents. Petitioner was originally
28 proceeding pro se and named an incomplete set of respondents. The amended petition adds the officials with
immediate and legal custody over Petitioner to ensure the Court can grant effective habeas relief.

1 6. Petitioner's prolonged detention without a hearing on danger and flight risk violates the
2 Due Process Clause of the Fifth Amendment. The Due Process Clause of the Fifth Amendment
3 forbids such arbitrary and prolonged detention. Respondents have never justified Petitioners'
4 continued detention at a hearing before a neutral decisionmaker with any evidence of danger or
5 flight risk.

6 7. Accordingly, Petitioner asks this Court for a writ of habeas corpus to vindicate his right
7 to due process and to seek relief from his continued arbitrary detention. He asks the Court to
8 declare his continued detention unconstitutional as applied to him, and to order his release *or*
9 *alternatively*, (1) a bond hearing where the government must prove that any continued detention
10 is justified by clear and convincing evidence that Petitioner presents a risk of flight or danger,
11 even after consideration of alternatives to detention that could mitigate any risk that Petitioner's
12 release would present; and (2) if the government cannot meet its burden, the IJ shall order
13 Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's
14 ability to pay a bond.

15 **CUSTODY**

16 8. Petitioner is currently in the custody of ICE at the California City Detention Center in
17 California City, California. Petitioner is therefore in "'custody' of [the DHS] within the
18 meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

19 **JURISDICTION AND VENUE**

20 9. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
21 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
22 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
23 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
24 (Administrative Procedure Act).

25 10. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
26 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.
27

1 15. It would be futile for Petitioner. to seek a bond hearing from an Immigration Judge. His
2 request would be summarily denied based on 8 U.S.C. §§ 1225(b)and 1226(c). There is
3 therefore no statutory or regulatory pathway for Petitioner to seek a bond hearing before a
4 neutral decisionmaker. Further, no statutory exhaustion requirements apply to Petitioner’s claim
5 of unlawful custody in violation of his due process rights, and there are no administrative
6 remedies that he needs to exhaust. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119
7 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the
8 agency does not have jurisdiction to review” constitutional claims); *In re Indefinite Det. Cases*,
9 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

10 **PARTIES**

11 16. Petitioner Ashot Ohanyan is a citizen and national of Armenia who entered the U.S. on
12 November 18, 2024 and has remained in ICE custody ever since. He is currently detained in the
13 California City ICE Processing Center.

14 17. Respondent Warden of California City Detention, currently Christopher Chestnut, is the
15 legal custodian of the Petitioner as the warden of the California City ICE Processing Center.

16 18. Respondent Minga WOFFORD is the Field Office Director of ICE, California City, CA,
17 and is named in her official capacity. ICE is the component of the DHS that is responsible for
18 detaining and removing noncitizens according to immigration law and oversees custody
19 determinations. In her official capacity, she is the legal custodian of the Petitioner.

20 19. Respondent Sergio ALBARRAN is the Acting Field Office Director of the San Francisco
21 ICE Field Office. In this capacity, he is responsible for the administration of immigration laws
22 and the execution of immigration enforcement and detention policy within ICE’s San Francisco
23 Area of Responsibility, including the detention of Petitioner. Respondent Albarran maintains an
24 office and regularly conducts business in this district. Respondent Albarran is sued in his official
25 capacity.

26 20. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
27

1 capacity. Among other things, ICE is responsible for the administration and enforcement of the
2 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
3 he is the legal custodian of Petitioner.

4 21. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
5 DHS is the federal agency that encompasses ICE, which is responsible for administering and
6 enforcing the INA and all other laws related to the immigration of noncitizens. In her capacity
7 as Secretary, Respondent Noem has responsibility for the administration and enforcement of the
8 immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of
9 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a).

10 Respondent Noem is the ultimate legal custodian of Petitioner

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

16 **FACTUAL ALLEGATIONS**

17 23. On November 18, 2024, Mr. Ohanyan and his wife presented themselves at the San
18 Ysidro Port of Entry seeking asylum based on persecution Mr. Ohanyan suffered in Armenia due
19 to his political opinion. Exh. 1, Brown Decl. ¶ 5. They were immediately separated. *Id.* ¶ 6.

20 While his wife was released from ICE custody within three days, Mr. Ohanyan was transferred
21 to the South Texas ICE Processing Center, where he has remained in continuous detention for
22 over fourteen months. *Id.* ¶ 6.

23 24. Mr. Ohanyan passed his credible fear interview in December 2024. *Id.* ¶ 7. He received a
24 Notice to Appear (“NTA”) placing him in removal proceedings on December 17, 2024, with his
25 first master calendar hearing initially scheduled for February 26, 2025, later moved to February
26 3, 2025. *Id.* ¶ 7.; Exh. 2, *Notice to Appear*.

1 25. Since February 2025, Mr. Ohanyan has attended only four preliminary master calendar
2 hearings despite being detained for over fourteen months. Exh. 1, ¶ 8. At his first hearing on
3 February 3, 2025, he pled to the allegations in his Notice to Appear with the assistance of
4 counsel and informed the court he would file an asylum application. *Id.* ¶ 9. The court set his
5 next hearing for March 11, 2025. *Id.*; Exh. 3, *Immigration Hearing Notices*.

6 26. Mr. Ohanyan timely filed his asylum application on March 7, 2025. *Id.* ¶ 10. At the
7 March 11, 2025 hearing, the immigration judge set his individual merits hearing for April 30,
8 2025. *Id.*; Exh. 3. Between April 3 and April 11, 2025, Mr. Ohanyan's attorney filed all
9 supporting documents. Exh. 1. ¶ 11. On April 11, 2025, the court—on its own motion—reset the
10 hearing to May 15, 2025. *Id.*; Exh. 3.

11 27. On May 7, 2025, counsel requested the only continuance in this case because a
12 supporting document had not yet arrived from Armenia. *Id.* ¶ 12. The court granted the motion
13 and reset the hearing to July 24, 2025. *Id.* This was the sole continuance requested on Mr.
14 Ohanyan's behalf during fourteen months of detention. *Id.*

15 28. Around June 20, 2025—approximately one month before his scheduled July 24, 2025
16 merits hearing—ICE transferred Mr. Ohanyan from the South Texas ICE Processing Center to
17 the Mesa Verde ICE Processing Center in California. *Id.* ¶ 13; Exh. 4, *ICE Notice of Alien*
18 *Address*. His case was transferred to the Adelanto Immigration Court. *Id.* This transfer disrupted
19 the hearing continuity before the immigration judge who had been managing his case since
20 February.

21 29. At a reset master calendar hearing on July 9, 2025 before a different immigration judge in
22 Adelanto, the judge stated she had not reviewed all the evidence in the record and set another
23 master calendar hearing for August 11, 2025 (later changed to August 12, 2025). *Id.* ¶ 14. At the
24 August 12, 2025 hearing, the court set yet another master calendar hearing for August 26, 2025.
25 *Id.* ¶ 15; Exh. 3.

26 30. On August 20, 2025, Mr. Ohanyan had a preliminary bond hearing. Exh.1 ¶ 16. The
27 immigration judge found that Mr. Ohanyan was not likely eligible for bond due to his status as

1 an arriving alien, and counsel was advised to withdraw the bond application. *Id.*; Exh. 5,
2 *Immigration Judge Orders*. There is no indication in the record that ICE conducted any
3 individualized assessment of whether Mr. Ohanyan poses a flight risk or danger to the
4 community.

5 31. The August 26, 2025 hearing was reset to September 29, 2025. Exh. 1 ¶ 17; Exh. 3. On
6 September 3, 2025, Mr. Ohanyan’s attorney filed a motion requesting that the case be set for an
7 individual merits hearing, noting that Mr. Ohanyan “has been in custody for nine months now
8 and would be grateful for a hearing date.” Exh. 1 ¶ 18; Exh. 5 A new immigration judge granted
9 that motion and set the merits hearing for November 3, 2025. Exh. 1 ¶ 18; Exh.5.

10 32. On September 29, 2025—just over one month before the scheduled November 3, 2025
11 merits hearing—ICE again transferred Mr. Ohanyan, this time to the California City ICE
12 Processing Center. Exh.1 ¶ 19. His case was also transferred to a different immigration court and
13 assigned to yet another immigration judge. *Id.* The merits hearing was reset to December 8,
14 2025. *Id.*

15 33. Four days before that December 8, 2025 hearing, on December 4, 2025, the court reset
16 Mr. Ohanyan’s hearing once again—this time to March 5, 2026. *Id.* ¶ 20. Counsel is aware from
17 other clients and cases that the immigration judge assigned to Mr. Ohanyan's case was out during
18 December 2025. *Id.* ¶ 21.

19 34. Mr. Ohanyan has no faith that his March 5, 2026 hearing will actually occur or that he
20 will not be transferred yet again. *Id.* ¶ 22.

21 35. Mr. Ohanyan describes conditions at the California City ICE Processing Center as
22 “prison-like” and the worst he has experienced during his fourteen-month detention. *Id.* ¶ 23. He
23 must undergo “count” every three hours, with each count lasting one hour—a significant
24 deterioration from his previous facilities. *Id.* Outside time is not regularly scheduled, and there is
25 no access to books except the Bible. *Id.* As a Christian pastor, Mr. Ohanyan spends most of his
26 time reading his Bible. *Id.*

1 36. Phone calls are prohibitively expensive. *Id.* ¶ 24. Mr. Ohanyan and his wife speak for ten
2 minutes daily, but she cannot visit him. *Id.*

3 37. The detention has taken a severe toll on Mr. Ohanyan's physical health. The food is
4 barely edible and the water barely drinkable, causing problems with his colon and painful
5 constipation. *Id.* He now suffers daily back pain as a consequence. *Id.* He cannot sleep more than
6 three hours due to the constant counts and worry about his situation. *Id.* Both his eyesight and
7 hearing have deteriorated during detention. *Id.* When he requests medical attention, it takes
8 weeks to receive medication and two months to see a doctor. *Id.*

9 38. Mr. Ohanyan has repeatedly asked deportation officers about the possibility of release on
10 bond, understanding that ICE has the authority to release him even though the immigration judge
11 found him ineligible for bond as an arriving alien. *Id.* ¶ 25. They have told him they cannot do
12 anything and that he must wait for his court date. *Id.*

13 39. Mr. Ohanyan's wife describes her husband as a different man—unable to maintain his
14 normally positive outlook and mental state. *Id.* ¶ 26; Exh. 6, Letters of Recommendation, Letter
15 of Kristine Mkrtyan. She states he is now frustrated, sad, and even despondent in their phone
16 conversations. *Id.*

17 40. Mr. Ohanyan has no criminal history. Exh. 1 ¶ 27. He reports only an arbitrary arrest and
18 detention by the Armenian government due to his political opinion—the very persecution from
19 which he seeks asylum. *Id.*

20 41. Mr. Ohanyan has not been provided a bond hearing before a neutral decisionmaker to
21 determine whether their prolonged detention is justified based on danger or flight risk because he
22 is not eligible to apply for bond. The Immigration Court lacks jurisdiction and authority to
23 provide Petitioner with a bond hearing to determine whether Petitioner's detention is justified.
24 *See* 8 U.S.C. §§ 1225(b); 1226(c). There is therefore no statutory or regulatory pathway for
25 Petitioner to seek a bond hearing before a neutral decisionmaker.

26 42. Absent intervention by this Court, Petitioner cannot and will not be provided with a bond
27 hearing by a neutral decisionmaker to assess the propriety of Petitioner's continued detention.

1 43. Continued detention will cause him irreparable harm. It will pose a compounding
2 psychological burden, in addition to whatever physical hardships he has to endure from prison
3 conditions. It will deprive him of his livelihood, his community, his church, and his life as he
4 knows it.

5 **LEGAL BACKGROUND**

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

16 45. Due process requires “adequate procedural protections” to ensure that the government’s
17 asserted justification for physical confinement “outweighs the individual’s constitutionally
18 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation
19 marks omitted). In the immigration context, the Supreme Court has recognized only two valid
20 purposes for civil detention—to mitigate the risks of danger to the community and to prevent
21 flight. *Id.*; *Demore*, 538 U.S. at 528. 26.

22 46. Due process requires that the government provide bond hearings to noncitizens facing
23 prolonged detention. “The Due Process Clause foresees eligibility for bail as part of due process”
24 because “[b]ail is basic to our system of law.” *Jennings*, 138 S. Ct. at 862 (Breyer, J., dissenting)
25 (internal quotation marks omitted). While the Supreme Court upheld the mandatory detention of
26 a noncitizen under Section 1226(c) in *Demore*, it did so based on the petitioner’s concession of
27 deportability and the Court’s understanding at the time that such detentions are typically “brief.”

1 *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a prolonged period
2 or is pursuing a substantial defense to removal or claim to relief, due process requires an
3 individualized determination that such a significant deprivation of liberty is warranted. *Id.* at 532
4 (Kennedy, J., concurring) (“[I]ndividualized determination as to his risk of flight and
5 dangerousness” may be warranted “if the continued detention became unreasonable or
6 unjustified”); *see also Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (holding that detention
7 beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*,
8 407 U.S. 245, 249-50 (1972) (holding that “lesser safeguards may be appropriate” for “short
9 term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (holding that, in the Eighth
10 Amendment context, “the length of confinement cannot be ignored in deciding whether [a]
11 confinement meets constitutional standards”); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021)
12 (holding that “the Due Process Clause imposes some form of reasonableness limitation upon the
13 duration of detention” under section 1226(c)) (internal quotation marks omitted).

14
15 **A. Detention That Exceeds Six Months Without a Bond Hearing Is Unconstitutional.**

16 47. Detention without a bond hearing is unconstitutional when it exceeds six months. *See*
17 *Demore*, 538 U.S. at 529-30 (upholding only “brief” detentions under Section 1226(c), which
18 last “roughly a month and a half in the vast majority of cases in which it is invoked, and about
19 five months in the minority of cases in which the [noncitizen] chooses to appeal”); *Zadvydass*,
20 533 U.S. at 701 (“Congress previously doubted the constitutionality of detention for more than
21 six months.”); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1091 (9th Cir. 2022) (“[O]nce the
22 [noncitizen] has been detained for approximately six months, continuing detention becomes
23 prolonged” (cleaned up) (quoting *Diouf v. Napolitano*, 634 F.3d 1081, 1091 (9th Cir. 2011)));
24 *Rodriguez v. Nielsen*, Case No. 18-CV-04187-TSH, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7,
25 2019) (“[D]etention becomes prolonged after six months and entitles [Petitioner] to a bond
26 hearing”).

27 48. The recognition that six months is a substantial period of confinement—and is the time
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1 after which additional process is required to support continued incarceration—is deeply rooted in
2 our legal tradition. With few exceptions, “in the late 18th century in America crimes triable
3 without a jury were for the most part punishable by no more than a six-month prison term.”
4 *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this tradition, the
5 Supreme Court has found six months to be the limit of confinement for a criminal offense that a
6 federal court may impose without the protection afforded by jury trial. *Cheff v. Schnackenberg*,
7 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a
8 benchmark in other contexts involving civil detention. *See McNeil v. Dir., Patuxent Inst.*, 407
9 U.S. 245, 249, 250-52 (1972) (recognizing six months as an outer limit for confinement without
10 individualized inquiry for civil commitment). The Court has likewise recognized the need for
11 bright line constitutional rules in other areas of law. *See Maryland v. Shatzer*, 559 U.S. 98, 110
12 (2010) (holding that 14 days must elapse following invocation of Miranda rights before
13 reinterrogation is permitted); *Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 55-56 (1991)
14 (holding that a probable cause hearing must take place within 48 hours of warrantless arrest).

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

17 49. Petitioner’s detention, without any individualized review, is unreasonable under the
18 *Mathews v. Eldridge* due process test. Alternatively, Petitioner prevails under the multi-factor
19 reasonableness test the Third Circuit adopted in *German Santos v. Warden Pike Correctional*
20 *Facility*, 965 F.3d 203, 211 (3d Cir. 2020).

21 50. Petitioner faces severe hardships while detained by ICE. Petitioner is held in a locked
22 down facility, with limited freedom of movement and access to Petitioner’s family or support
23 network: “[T]he circumstances of their detention are similar, so far as we can tell, to those in
24 many prisons and jails.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); accord *Chavez–*
25 *Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d
26 390, 397-98 (3d Cir. 1999); *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016).
27 “And in some cases the conditions of their confinement are inappropriately poor” including, for

1 example, “invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip
2 searches, long waits for medical care and hygiene products, and, in the case of one detainee, a
3 multiday lock down for sharing a cup of coffee with another detainee.” *Jennings*, 138 S. Ct. at
4 861 (Breyer, J., dissenting) (citing Press Release, Off. of Inspector Gen., Dept. of Homeland
5 Sec., *DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention*
6 *Facilities* (Dec. 14, 2017)); *see also* Tom Dreisbach, *Government's own experts found 'barbaric'*
7 *and 'negligent' conditions in ICE detention*, NPR (Aug. 16, 2023, 5:01 AM) (reporting on the
8 “‘negligent’ medical care (including mental health care), ‘unsafe and filthy’ conditions, racist
9 abuse of detainees, inappropriate pepper-spraying of mentally ill detainees and other problems
10 that, in some cases, contributed to detainee deaths” contained in inspection reports prepared by
11 experts from the Department of Homeland Security’s Office for Civil Rights and Civil Liberties
12 after examining detention facilities between 2017 and 2019). Individuals at Mesa Verde
13 Detention Facility have described receiving food contaminated with insects (including
14 cockroaches, flies, and spiders), hair, and other foreign objects. *See* California Collaborative for
15 Immigrant Justice, *Starving for Justice: The Denial of Proper Nutrition in Immigration*
16 *Detention*, at p. 7 (April 2022), available at

17 https://www.ccijustice.org/files/ugd/733055_c43b1cbbdda341b894045940622a6dc3.pdf.

18 51. At Mesa Verde Detention Facility, over 80% of detained individuals who responded to
19 one survey said they had received expired food. *Id.*

20 52. In addition, detainees at the California City ICE Processing Center have sued U.S.
21 Immigration and Customs Enforcement, alleging the facility “is polluted by sewage leaks,
22 infested with bugs and is denying people access to food, water and their lawyers.” *See* Cal
23 Matters, *ICE opened a detention center in a former California prison. Detainees are suing over*
24 *conditions inside*, (Nov. 13, 2025), available at: [https://calmatters.org/justice/2025/11/ice-](https://calmatters.org/justice/2025/11/ice-california-city-detainee-lawsuit/)
25 [california-city-detainee-lawsuit/](https://calmatters.org/justice/2025/11/ice-california-city-detainee-lawsuit/). The Attorney General of California, upon inspected California
26 City, found the living conditions to be “unsafe and unsanitary,” due to “leaks from rainwater
27 and/or plumbing that infiltrated their living spaces, insufficient clothing and blankets to keep
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1 them warm, and being threatened with write-ups if they covered vents to prevent cold air from
2 entering their cells.” See *Attorney General Bonta Warns of Dangerous Conditions at California*
3 *City Detention Facility*, Office of the Attorney General, State of California (Dec. 19, 2025),
4 available at: [https://oag.ca.gov/news/press-releases/attorney-general-bonta-warns-dangerous-](https://oag.ca.gov/news/press-releases/attorney-general-bonta-warns-dangerous-conditions-california-city-detention)
5 [conditions-california-city-detention](https://oag.ca.gov/news/press-releases/attorney-general-bonta-warns-dangerous-conditions-california-city-detention).

6 53. The *Mathews* test for procedural due process claims balances: (1) the private interest
7 threatened by governmental action; (2) the risk of erroneous deprivation of such interest and the
8 value of additional or substitute safeguards; and (3) the government interest. *Mathews v.*
9 *Eldridge*, 424 U.S. at 335; see also *Sho v. Current or Acting Field Off. Dir.*, No. 1:21CV-01812
10 TLN AC, 2023 WL 4014649, at *3 (E.D. Cal. June 15, 2023), report and recommendation
11 adopted, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21, 2023) (applying
12 *Mathews* factors to a habeas petitioner’s due process claims and collecting cases doing the
13 same). Here, each factor weighs in Petitioner’s favor, requiring this Court to promptly hold a
14 hearing to evaluate whether the government can justify their ongoing detention.

15 54. First, Petitioner indisputably has a weighty interest in their liberty, the core private
16 interest at stake here. *Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment. . . lies at the
17 heart of the liberty [the Due Process Clause] protects.”). Petitioner, who is being held in
18 “incarceration-like conditions,” has an overwhelming interest here, regardless of the length of his
19 immigration detention, because “any length of detention implicates the same” fundamental
20 rights. *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at *6 (N.D. Cal. Dec.
21 22, 2020).

22 55. Second, Petitioner will suffer the erroneous risk of deprivation of their liberty without an
23 individualized evidentiary hearing. The risk of erroneous deprivation of their liberty is high, as
24 they have been detained since November 18, 2024 without any evaluation of whether the
25 government can justify detention under their individualized circumstances. “[T]he risk of an
26 erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is
27 substantial.” *Diouf*, 634 F.3d at 1092. Conversely, “the probable value of additional procedural
28

1 safeguards— an individualized evaluation of the justification for his detention—is high, because
2 Respondents have provided virtually no procedural safeguards at all.” *Jimenez v. Wolf*, No. 19-
3 cv-07996-NC, 2020 WL 510347, *3 (N.D. Cal. Jan. 30, 2020) (granting habeas petition for
4 person who had been detained for one year without a bond hearing).

5 56. Third, the government’s interest is very low in continuing to detain Petitioner without
6 providing any neutral review. *See Mathews*, 424 U.S. at 335. The specific interest at stake here is
7 not the government’s ability to continue to detain Petitioner, but rather the government’s ability
8 to continue to detain them for months on end without any individualized review. *See Marroquin*
9 *Ambriz v. Barr*, 420 F. Supp. 3d 953, 964 (N.D. Cal. 2019); *Henriquez v. Garland*, No. 5:22-CV-
10 00869-EJD, 2022 WL 2132919, at *5 (N.D. Cal. June 14, 2022). The cost of providing an
11 individualized inquiry is minimal. *See Henriquez*, 2022 WL 2132919, at *5. The government has
12 repeatedly conceded this fact. *See Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal.
13 2019); *Singh v. Barr*, 400 F. Supp. 3d 1005, 1021 (S.D. Cal. 2019); *Marroquin Ambriz*, 420 F.
14 Supp. 3d at 964.

15 57. In sum, the *Mathews* factors establish that Petitioner is entitled to an evidentiary hearing
16 before a neutral adjudicator. Unsurprisingly, courts applying these standards in this Circuit have
17 repeatedly held that prolonged detention without a hearing before a neutral adjudicator violates
18 procedural due process. *See, e.g., Romero Romero v. Wolf*, No. 20-CV08031-TSH, 2021 WL
19 254435, at *2, *5 (N.D. Cal. Jan. 26, 2021) (holding that the petitioner’s detention of just over
20 one year without a custody hearing was “not compatible with due process” and granting habeas);
21 *Jimenez*, 2020 WL 510347, at *1, *2, *4 (holding that the petitioner’s detention of just over one
22 year without a custody hearing violated his due process rights and granting habeas); *Gonzalez v.*
23 *Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, at *1, *5 (N.D. Cal. Jan. 25, 2019) (holding
24 that the petitioner’s detention for just over one year without a custody hearing violates his due
25 process rights and granting habeas); *see also Singh v. Garland*, No. 1:23-cv-01043-EPG-HC,
26 2023 WL 5836048, at *6 (E.D. Cal. 2023); *Sho v. Current or Acting Field Office Director*, No.
27 1:21-cv-01812-TLN-AC, 2023 WL 4014649 (E.D. Cal. 2023). This Court should so hold as

1 well.

2 58. *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022), does not disturb this result. In
3 *Rodriguez Diaz*, the Ninth Circuit applied the *Mathews* test to hold that the detention of a
4 noncitizen detained under a different detention statute, 8 U.S.C. § 1226(a), did not violate
5 procedural due process. 53 F.4th at 1195. Unlike Sections 1225(b) and 1226(c), § 1226(a)
6 mandates that detained individuals receive an individualized bond hearing at the outset of
7 detention and provides for further bond hearings upon a material change in circumstances. See 8
8 C.F.R. § 1003.19(e). The panel’s decision in *Rodriguez Diaz* was predicated on the immediate
9 and ongoing availability of this administrative process under § 1226(a). 53.F.4th at 1202
10 (“Section 1226(a) and its implementing regulations provide extensive procedural protections that
11 are unavailable under other detention provisions . . .”). Unlike the petitioner in *Rodriguez Diaz*,
12 Petitioner has no statutory access to individualized review of his detention.

13 59. Alternatively, courts that apply a reasonableness test have considered four nonexhaustive
14 factors in determining whether detention is reasonable. *German Santos v. Warden Pike Cnty.*
15 *Corr. Facility*, 965 F.3d 203, 210-22 (3d Cir. 2020). The reasonableness inquiry is “highly fact-
16 specific.” *Id.* at 210. “The most important factor is the duration of detention.” *Id.* at 211; *see also*
17 *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, at *1, *5 (N.D. Cal. Jan. 25,
18 2019) (concluding that the petitioner’s detention for just over one year without a custody hearing
19 weighed strongly in favor of finding detention unreasonable, and violated his due process rights
20 and granting habeas). Duration is evaluated along with “all the other circumstances,” including
21 (1) whether detention is likely to continue, (2) reasons for the delay, and (3) whether the
22 conditions of confinement are meaningfully different from criminal punishment. *Id.* at 211.

23 60. As noted, Mr. Ohanyan has been detained for more than a year, *supra* ¶ 25 and
24 Petitioner’s detention is likely to continue as Petitioner asserts their right to seek immigration
25 relief. Noncitizens should not be punished for pursuing “legitimate proceedings” to seek relief.
26 *See Masood v. Barr*, No. 19-CV-07623-JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020) (“[I]t
27 ill suits the United States to suggest that [Petitioner] could shorten his detention by giving up

1 these rights and abandoning his asylum application.”). Thus, courts should not count a
2 continuance against the noncitizen when they obtained it in good faith to prepare their removal
3 case, including efforts to obtain counsel. *See Hernandez Gomez*, 2023 WL 2802230, at *4 (“The
4 duration and frequency of these requests [for continuances] do not diminish his significant
5 liberty interest in his release or his irreparable injury of continued detention without a bond
6 hearing.”). Moreover, Petitioner’s confinement and experiences at a facility operated by a
7 private, for-profit prison contractor, demonstrate that their conditions of confinement are not
8 meaningfully different from those of criminal punishment.

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

11 61. At a bond hearing, due process requires certain minimum protections to ensure that a
12 noncitizen’s detention is warranted: the government must bear the burden of proof by clear and
13 convincing evidence to justify continued detention, taking into consideration available
14 alternatives to detention; and, if the government cannot meet its burden, the noncitizen’s ability
15 to pay a bond must be considered in determining the appropriate conditions of release.

16 62. To justify prolonged immigration detention, the government must bear the burden of
17 proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v.*
18 *Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Aleman Gonzalez v. Barr*, 955 F.3d 762, 781 (9th
19 Cir. 2020), rev’d on other grounds by *Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 213 L. Ed.
20 2d 102 (2022) (“Jennings’s rejection of layering [the clear and convincing burden of proof
21 standard] onto § 1226(a) as a matter of statutory construction cannot . . . undercut our
22 constitutional due process holding in *Singh*.”); *Sho*, 2023 WL 4014649, at *5 (applying *Singh*
23 and holding that the government shall bear the burden in a constitutionally required bond hearing
24 to remedy detention under a different statutory provision); *Singh*, 2023 WL 5836048, at *9
25 (same); *Doe v. Garland*, No. 3:22-CV-03759-JD, 2023 WL 1934509, at *2 (N.D. Cal. Jan. 10,
26 2023) (same); *Pham v. Becerra*, No. 23-CV-01288-CRB, 2023 WL 2744397, at *7 (N.D. Cal.
27 Mar. 31, 2023) (same); *Hernandez Gomez v. Becerra*, No. 23-CV01330-WHO, 2023 WL

1 2802230, at *4 (N.D. Cal. Apr. 4, 2023) (same); *Martinez Leiva v. Becerra*, No. 23-CV-02027-
2 CRB, 2023 WL 3688097, at *9 (N.D. Cal. May 26, 2023); *I.E.S. v. Becerra*, No. 23-CV-03783-
3 BLF, 2023 WL 6317617, at *10 (N.D. Cal. Sept. 27, 2023) (same); *Singh Grewal v. Becerra*,
4 No. 23-CV-03621-JCS, 2023 WL 6519272, at *8 (N.D. Cal. Oct. 4, 2023) (same); *Gomez v.*
5 *Becerra*, No. 23-CV-03724-JCS, 2023 WL 6232236, at *9 (N.D. Cal. Sept. 25, 2023) (same);
6 *Henriquez v. Garland*, No. 23-CV-01025-AMO, 2023 WL 6226374, at *4 (N.D. Cal. Sept. 25,
7 2023) (same); *Rodriguez Picazo v. Garland*, No. 23-CV-02529-AMO, 2023 WL 5352897, at *7
8 (N.D. Cal. Aug. 21, 2023) (same).

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

16 64. The requirement that the government bear the burden of proof by clear and convincing
17 evidence is also supported by application of the three-factor balancing test from *Mathews*, 424
18 U.S. at 335. First, “an individual’s private interest in ‘freedom from prolonged detention’ is
19 ‘unquestionably substantial.’” See *Rodriguez Diaz*, 53 F.4th at 1207 (citing *Singh*, 638 F.3d at
20 1208). Second, the risk of error is great where the government is represented by trained attorneys
21 and detained noncitizens are often unrepresented and may lack English proficiency. See *Santosky*
22 *v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear and convincing evidence at parental
23 termination proceedings because “numerous factors combine to magnify the risk of erroneous
24 factfinding” including that “parents subject to termination proceedings are often poor,
25 uneducated, or members of minority groups” and “[t]he State’s attorney usually will be expert on
26 the issues contested”). Moreover, detained noncitizens are incarcerated in prison-like conditions
27 that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a
28

1 bond hearing. *See supra* ¶¶ 44-46. Third, placing the burden on the government imposes
2 minimal cost or inconvenience to it, as the government has access to the noncitizen’s
3 immigration records and other information that it can use to make its case for continued
4 detention.

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

6 65. Due process also requires consideration of alternatives to detention. The primary purpose
7 of immigration detention is to ensure a noncitizen’s appearance during civil removal
8 proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if
9 there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*,
10 441 U.S. 520, 538–39 (1979) (civil pretrial detention may be unconstitutionally punitive if it is
11 excessive in relation to its legitimate purpose). ICE’s alternatives to detention program—the
12 Intensive Supervision Appearance Program—has achieved extraordinary success in ensuring
13 appearance at removal proceedings, reaching compliance rates close to 100 percent. *Hernandez*
14 *v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99%
15 attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). Thus,
16 alternatives to detention must be considered in determining whether prolonged incarceration is
17 warranted.

18 66. Due process likewise requires consideration of a noncitizen’s ability to pay a bond.
19 “Detention of an indigent ‘for inability to post money bail’ is impermissible if the individual’s
20 ‘appearance at trial could reasonably be assured by one of the alternate forms of release.’”
21 *Hernandez*, 872 F.3d at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978)
22 (en banc)). Therefore, when determining the appropriate conditions of release for people
23 detained for immigration purposes, due process requires “consideration of financial
24 circumstances and alternative conditions of release.” *Id.*; *see also Martinez v. Clark*, 36 F.4th
25 1219, 1231 (9th Cir. 2022) (“While the government had a legitimate interest in protecting the
26 public and ensuring the appearance of noncitizens in immigration proceedings, we held [in
27 *Hernandez*] that detaining an indigent alien without consideration of financial circumstances and

1 alternative release conditions was ‘unlikely to result’ in a bond determination ‘reasonably related
2 to the government’s legitimate interests.’ (citation omitted).”)

3
4 **CLAIM FOR RELIEF**

5 **28 U.S. Code § 2241**

6 **Violation of Fifth Amendment Right to Due Process**

7 67. Petitioner re-alleges and incorporates herein by reference, as is set forth fully herein, the
8 allegations in all the preceding paragraphs.

9 68. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation
10 of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—
11 from government custody, detention, or other forms of physical restraint—lies at the heart of the
12 liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

13 67. “In the context of immigration detention, it is well-settled that due process requires
14 adequate procedural protections to ensure that the government’s asserted justification for physical
15 confinement outweighs the individual’s constitutionally protected interest in avoiding physical
16 restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494 U.S. at 127 (Generally, “the
17 Constitution requires some kind of a hearing before the State deprives a person of liberty or
18 property.”). In the immigration context, for such hearings to comply with due process, the
19 government must bear the burden to demonstrate, by clear and convincing evidence, that the
20 noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196,
21 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

22 68. Petitioner’s continued detention of approximately 14 months without a pre-deprivation
23 hearing violates due process. To justify Petitioner’s ongoing prolonged detention, due process
24 requires that the government establish, at an individualized hearing before a neutral
25 decisionmaker, that Petitioner’s detention is justified by clear and convincing evidence of flight
26 risk or danger, taking into account whether alternatives to detention could sufficiently mitigate
27 that risk.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- (3) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- (4) Declare Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment
- (5) Declare that Petitioner cannot be re-arrested unless he be afforded a hearing on the question of whether his re-incarceration would be lawful—i.e., whether the government has demonstrated to a neutral adjudicator that he is a danger or a flight risk by clear and convincing evidence;
- (6) Award reasonable costs and attorney fees; and
- (7) Grant such further relief as the Court deems just and proper.

Dated: January 12, 2026

Respectfully submitted,

/s/ Jacqueline M. Brown

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