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DEC 15 2025	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

1 Jose Alberto Miron Quijano  
 2 Alien No.   
 3 San Luis Regional Detention Center  
 4 406 N Ave D  
 5 San Luis, AZ 85349

7 **IN THE UNITED STATES DISTRICT COURT**  
 8 **FOR THE DISTRICT OF ARIZONA**

10 JOSE ALBERTO MIRON QUIJANO,  
 11 -Petitioner, *Pro Se*,

) Case No.:

) INS No. 

12 v.

13 THE UNITED STATES OF AMERICA et. al.,

) Custody Status: DETAINED

14 Kristi NOEM, in her Official Capacity,  
 15 Secretary of the Department of Homeland Security,

)

) **CV25-04676-PHX-DJH--CDB**

16 Pamela J. BONDI, in her Official Capacity,  
 17 Attorney General, Department of Justice,

)

)

18 John CANTU, in his Official Capacity,  
 19 Phoenix Field Office Director  
 20 ICE Enforcement and Removal Operations,

) **Petition for Writ of Habeas**

) **Corpus Pursuant to**

) **28 U.S.C. § 2241**

21 David R. RIVAS, in his Official Capacity,  
 22 Warden of Immigration Detention Facility,  
 23 San Luis Regional Detention Center;

)

)

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)

THIS DOCUMENT IS NOT IN PROPER FORM ACCORDING  
 TO FEDERAL AND/OR LOCAL RULES AND PRACTICES  
 AND IS SUBJECT TO REJECTION BY THE COURT.

REFERENCE LRWF 5.4  
 (Rule Number/Section)

24 -Respondents.

26 **PETITION FOR WRIT OF HABEAS CORPUS**

27 COMES NOW JOSE ALBERTO MIRON QUIJANO, as the Petitioner in this present  
 28 matter, appearing *Pro Se*, and hereby respectfully petitions this Honorable District Court for a  
 29 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

30 The Petition of JOSE ALBERTO MIRON QUIJANO respectfully shows:

**INTRODUCTION**

- 1  
2 1. Petitioner is currently being physically detained under the full custody of the  
3 Respondents, including the Department of Homeland Security, Immigration and  
4 Customs Enforcement (“DHS/ICE”) at the San Luis Regional Detention Center  
5 (“SLRDC”) in San Luis, Arizona. Petitioner entered the United States on or about  
6 November 22, 2022.
- 7 2. A Notice to Appear (“NTA”) was issued charging Petitioner with inadmissibility.
- 8 3. Petitioner sought relief in the form of asylum, withholding of removal, and Convention  
9 Against Torture. However, the Immigration Judge (“IJ”) denied all forms of relief.
- 10 4. Petitioner appealed to the Board of Immigration Appeals (“BIA”) and the Board  
11 affirmed the IJ’s decision.
- 12 5. Subsequently, a Petition for Review was timely filed with the U.S. Court of Appeals  
13 for the Ninth Circuit. That Petition for Review is still pending with the Court. *See* Ninth  
14 Circuit Case No. 25-1917.
- 15 6. Petitioner has been detained in “DHS/ICE” custody since November 22, 2022, a period  
16 of well-over three (“3”) years, about thirty-six (“36”) months to the present day.
- 17 7. Interestingly, Petitioner’s bond proceeding case is meritorious as it presents a highly  
18 likelihood of success on the merits because he has significant favorable factors.
- 19 8. As such, Respondents have not afforded a fair bond hearing wherein the government  
20 must establish by a constitutional, due process, standard of *clear and convincing*  
21 evidence that Petitioner presents a risk of flight or danger to the community.
- 22 9. Petitioner therefore respectfully requests that this Court issue a Writ of Habeas Corpus,  
23 and determine that Petitioner’s indefinite detention is not justified because the  
24 government has not established by *clear and convincing* evidence that Petitioner

1 presents a risk of flight or danger in light of reasonable available alternatives to  
2 detention, and order Petitioner's release, with appropriate conditions of supervision if  
3 necessary, taking into account Petitioner's ability to pay a bond.

4 **10.** In the alternative, Petitioner respectfully requests that this Court issue a Writ of Habeas  
5 Corpus and order Petitioner's release within twenty ("20") days unless Respondent's  
6 schedule a hearing before immigration judge where it has proper jurisdiction and  
7 where: (1) to continue detention, the government must establish by *clear and*  
8 *convincing* evidence that Petitioner present a risk of flight or public danger, even after  
9 consideration of alternatives to detention that could mitigate any risk that Petitioner's  
10 release would present; and (2) if the government cannot meet its heavy burden, the  
11 immigration judge orders Petitioner's release on appropriate conditions of supervision,  
12 taking into account Petitioner's ability to pay a reasonable bond.

13 **PARTIES**

14 **11.** Petitioner, JOSE ALBERTO MIRON QUIJANO, is a native and citizen of El Salvador.

15 **12.** Petitioner came to the US seeking political asylum motivated by a well-founded fear  
16 of persecution and torture. Petitioner has never departed the United States since his  
17 initial and sole entry.

18 **13.** Respondent, UNITED STATES OF AMERICA, issued pursuant to 5 U.S.C. § 703, in  
19 which the Administrative Procedures Act provides "[i]f no special statutory review  
20 proceeding is applicable, the action for judicial review may be brought against the  
21 United States, the agency by its official title, or the appropriate officer."

22 **14.** Respondent Kristi NOEM is sued in her official capacity as the Secretary of the  
23 Department of Homeland Security (herein after referred to as "DHS"). In her capacity  
24 she has the responsibility for administration and enforcement of the immigration laws

1 pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. 296, 116  
2 Stat. 2135 (Nov. 25, 2002). *See Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003).

3 **15.** Respondent Pamela J. BONDI is sued in her official capacity as the Attorney General  
4 of the United States. She has responsibility for the administration and enforcement of  
5 the immigration laws pursuant to 8 U.S.C. § 1103, and Immigration and Nationality  
6 Act § 103. As the "INA" has not been amended to reflect the designation of the  
7 Secretary of the DHS as the administrator and enforcer of the immigration laws.  
8 Respondent Pamela J. BONDI is sued in her official capacity to the extent that 8 U.S.C.  
9 § 1102 gives her the authority to detain Petitioner. *See Armentero v. INS*, supra.

10 **16.** Respondent John CANTU is sued in his official capacity as ICE Field Office Director,  
11 Enforcement and Removal Operations, DHS for the Phoenix Field Office, who is  
12 responsible for the day-to-day operation of detaining and removing aliens in San Luis,  
13 Arizona. Respondent, John CANTU is the Field Office Director responsible for the  
14 Phoenix Field Office of ICE Enforcement and Removal Operations, which has  
15 administrative jurisdiction over Petitioner's case. He is a legal custodian of Petitioner  
16 and is named in his official capacity.

17 **17.** Respondent, David R. RIVAS or the Acting Warden, Warden of San Luis Regional  
18 Detention Center, where Petitioner is currently detained under the authority of ICE,  
19 alternatively may be considered to be Petitioner's immediate custodian.

20 **18.** Respondents are the legal custodian of Petitioner and are named in their official  
21 capacity.

22 **JURISDICTION**

23 **19.** This action arises under the United States Constitution, the Immigration & Nationality  
24 Act of 1952, as amended (herein after referred to as "INA") 8 U.S.C. § 1101 et. seq.,

1 and the Administrative Procedures Act (herein after referred to as "APA"), 5 U.S.C. §§  
2 701 et. seq. This Court has Habeas Corpus jurisdiction pursuant to 28 U.S.C. §§ 2241  
3 et. seq.; Article 1, Clause 2 of the United States Constitution (hereinafter referred to as  
4 "Suspension Clause"); and the Common Law. This Court may also exercise jurisdiction  
5 pursuant to 28 U.S.C. § 1331 and may grant relief pursuant to the Declaratory  
6 Judgement Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

7 **VENUE**

8 20. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(c) because the  
9 Respondents are employees or officers of the United States, acting in their official  
10 capacity, and an agency of the United States. Venue is additionally proper in this Court  
11 because the Petitioner is detained in this District, and pursuant to *Braden v. 30th*  
12 *Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500(1973). Also, a substantial  
13 part of the events giving rise to the claims in this action took place within this District.


14 **STATEMENT OF THE FACTS**

15 21. Petitioner, Mr. Jose Alberto Miron Quijano, is a native, citizen and national of El  
16 Salvador. Petitioner suffered past persecution and torture in El Salvador.


17 22. Petitioner, along with his wife and children, two sons, entered the United States to  
18 pursue political asylum protection due to the worsening country and political  
19 conditions. Petitioner seeks to remain in the United States in a lawful manner.

20 23. Interestingly, Petitioner and his family, specifically his wife and children, turned  
21 themselves in and were taken into custody at the border. Subsequently, Petitioner's  
22 wife and sons and were released and are waiting for his release. The upshot, his family  
23 were granted release while Petitioner remained in custody.  
24

**CRIMINAL HISTORY**

1  
2 **24.** In this special case, Petitioner does not have a criminal history, or anything close to  
3 relevant here in the United States. In El Salvador, 

4 

5  Petitioner is a responsible family man without any involvement in any illegal  
6 activity.

7 **25.** Further, Petitioner does not exhibit any history of violent behavior or violent criminal  
8 history. Conversely, he has demonstrated excellent behavior while detained.

9 **26.** Petitioner has shown commendable willingness to reintegrate to day-to-day society  
10 once released. Petitioner is a man of faith and spreads harmony and peace at the  
11 detention center. If released, Petitioner has a Sponsor and names Casa Marianella Inc.,  
12 as the responsible custodian. Again, Petitioner lacks criminal convictions.

13 **27.** The following positive factors are also important to consider. Petitioner is not a threat  
14 to national security, has no history of such activity and presents no danger to public  
15 safety. Petitioner does not have any pending criminal charges or any “aggravated  
16 felony” convictions. Finally, Petitioner has not participated in a criminal street gang  
17 and does not have any gang related conviction as defined under in 18 U.S.C. § 521(a).

18 **28.** Based on the totality of these compelling mitigating factors, it demonstrates that  
19 Petitioner merits, at the very least, a fair and impartial bond hearing where the  
20 immigration court holds proper jurisdiction.

21 **PROCEDURAL HISTORY**

22 **29.** On or about November 22, 2022, Petitioner was placed in “ICE” custody and removal  
23 proceedings were initiated through the issuance of a Notice to Appear (“NTA”).

24 **30.** Petitioner went before an immigration judge where the IJ denied relief.

1 31. Petitioner timely filed an appeal with the Board (“BIA”) where it affirmed the IJ’s  
2 decision.

3 32. Petition for Review was filed with the Ninth Circuit, which is currently pending. *See*  
4 *Miron Quijano v. Bondi*, Ninth Circuit Case No. 25-1917.

5 **ARGUMENT**

6 33. “It is well established that the Fifth Amendment entitles aliens to due process of law in  
7 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  
9 custody, detention, or other forms of physical restraint—lies at the heart of liberty” that  
10 the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also*  
11 *id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause included  
12 protection against unlawful or arbitrary personal restraint or detention.”). This  
13 fundamental due process protection applies to all noncitizens, including both  
14 removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“both  
15 removable and inadmissible aliens are entitled to be free from detention that is arbitrary  
16 or capricious”).

17 34. Due process therefore requires “adequate procedural protections” to ensure that the  
18 government’s asserted justification for physical confinement “outweighs the  
19 individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* at  
20 690. Civil commitment for *any* purpose constitutes a significant deprivation of liberty.  
21 *Addington v. Texas*, 441 U.S. 418, 425 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). In the  
22 immigration context, the Supreme Court has recognized only two valid purpose for  
23 civil detention—to mitigate the risks of danger to the community and to prevent flight.  
24 *Id.*; *Demore*, 538 U.S. at 528.

1 35. Following *Zadvydas* and *Demore*, every circuit court of appeals to confront the issue  
2 had found either the immigration statutes or due process require a hearing for  
3 noncitizens subject to unreasonably prolonged detention pending removal proceedings.  
4 *See, Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020) (8 U.S.C. § 1226(a)); *Reid*  
5 *v. Donelan*, 819 F.3d 486 (1st Cir. 2016) (8 U.S.C. § 1226(c)); *Sopo v. U.S. Attorney*  
6 *Gen.*, 825 F.3d 1199 (11th Cir. 2016) (detention under 8 U.S.C. § 1226(c)); *Lora v.*  
7 *Shanahan*, 804 F.3d 601 (2d Cir. 2015) (8 U.S.C. § 1226(c)); *Rodriguez v. Robbins*  
8 *(Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015) (8 U.S.C. § 1226(c) and 8 U.S.C. §  
9 1225(b)); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011) (8 U.S.C. §  
10 1226(c)); *Diouf v. Holder (Diouf II)*, 634 F.3d 1081 (8U.S.C. § 1231(a)); *Ly v. Hanse*,  
11 351 F.3d 263 (6th Cir. 2003) (8 U.S.C. §1226(c)) (requiring release when mandatory  
12 detention exceeds a reasonable period of time).

13 36. While the Supreme Court upheld the mandatory detention of a noncitizen under Section  
14 1226(c) in *Demore*, it did so based upon the petitioner's concession of deportability  
15 and the Court's understanding that detentions under Section 1226(c) are typically  
16 "brief". *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a  
17 prolonged period or is pursuing a substantial defense to removal or claim to relief, due  
18 process requires an individualized determination that such a significant deprivation of  
19 liberty is warranted. *Id.* at 532 (Kennedy, J., concurring) ("individualized  
20 determination as to his risk of flight and dangerousness" may be warranted "if the  
21 continued detention became unreasonable or unjustified"). *See also, Jackson v.*  
22 *Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires  
23 additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972)  
24 ("lesser safeguards may be appropriate" for "short term confinement"); *Hutto v.*

1           *Finney*, 437 U.S. 678, 685-86 (1978) (in Eighth Amendment context, “the length of  
2           confinement cannot be ignored in deciding whether [a] confinement meets  
3           constitutional standards”).

4           **37.** Detention without a proper bond hearing is unconstitutional when it exceeds six  
5           months. *See Demore*, 538 U.S. at 529-30 (upholding only “brief” detention under  
6           Section 1226(c), which last “roughly a month and a half in the vast majority of cases  
7           in which it is invoked, and about five months in the minority of cases in which the alien  
8           chooses to appeal”); *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the  
9           constitutionality of detention for more than six months”).

10           **38.** The recognition that six months is a substantial period of confinement—and is the time  
11           after which additional process is required to support continued incarceration—is deeply  
12           rooted in our legal tradition. With few exceptions, “in the late 18th century in America  
13           crimes triable without a jury were for the most part punishable by no more than a six-  
14           month prison term . . .” *Duncan v. State of La.*, 391 U.S. 145, 161 & n.34 (1968).

15           **39.** Consistent with this tradition, the Supreme Court has found six months to be the limit  
16           of confinement for a criminal offense that a Federal Court may impose without the  
17           protection afforded by jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966)  
18           (plurality opinion). The Court has also looked to six months as a benchmark in other  
19           contexts involving civil detention. *See McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245,  
20           249, 250-52 (1972) (recognizing six months as an outer limit for confinement without  
21           individualized inquiry for civil commitment). The Court has likewise recognized the  
22           need for bright line constitutional rules in other areas of law. *See Maryland v. Shatzer*,  
23           559, U.S. 98, 110 (2010) (14 days for re-interrogation following invocation of Miranda

1 rights); *Cty. Of Riverside v. McLaughlin*, 500 U.S. 44, 55-56 (1991) (48 hours for  
2 probable cause hearing).

3 40. Even if a bond hearing is not required after six months in every case, at a minimum,  
4 due process requires a bond hearing after detention has become unreasonably  
5 prolonged. *See Diop*, 656 F.3d at 234. Courts that apply a reasonableness test have  
6 considered three main factors in determining whether detention is reasonable. First,  
7 courts have evaluated whether the noncitizen has raised a “good faith” challenge to  
8 removal—that is, the challenge is “legitimately raised” and presents “real issues”.  
9 *Chavez-Alvarez v. Wardern York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015).  
10 Petitioner’s detention is well-over thirty-six (36) months, without an impartial and fair  
11 bond hearing that guarantees fundamental Due Process of Law. Any delay has occurred  
12 as a result of litigating favorable and substantive issues affecting removal.

13 41. Second, reasonableness is a “function of the length of the detention,” with detention  
14 presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *accord Sopo*,  
15 825 F.3d at 1217-18. Third, courts have considered the likelihood that detention will  
16 continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding  
17 detention unreasonable after nine months of detention, when the parties could “have  
18 reasonably predicted that *Chavez-Alvarez’s* appeal would take a substantial amount of  
19 time, making his already lengthy detention considerably longer”); *Sopo*, 825 F.3d at  
20 128; *Reid*, 819 F.3d at 500.

21 42. At a proper bond hearing, due process requires certain minimal protections to ensure  
22 that a noncitizen’s detention is warranted: the *government* must bear the burden of  
23 proof by *clear and convincing* evidence to justify continued detention, taking into  
24 consideration available alternatives to detention; and if the government cannot meet its

1           burden, the noncitizen's ability to pay a bond must be considered in determining the  
2           appropriate conditions of release.

3           43. To justify immigration detention, the government must bear the burden of proof by  
4           *clear and convincing* evidence that the noncitizen is a danger or flight risk. *See Singh*  
5           *v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011). Where the Supreme Court has  
6           permitted civil detention in other contexts, it has relied on the fact that the Government  
7           bore the burden of proof at least by *clear and convincing evidence*. *See United States*  
8           *v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where "full-  
9           blown adversary hearing," requiring "clear and convincing evidence" and "neutral  
10           decisionmaker") *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil  
11           detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692  
12           (finding post-final-order custody review procedures deficient because, inter alia, they  
13           placed burden on detainee).

14           44. The Ninth Circuit Court of Appeals confirmed that *Jennings v. Rodriguez*, 138 S. Ct.  
15           830 (2018) did not invalidate the holding in *Singh* and *Rodriguez v. Robbins* (Rodriguez  
16           III), 804 F.3d 1060 (9th Cir. 2015), which required that the Government justify a non-  
17           citizen's detention by *clear and convincing* evidence. *Aleman Gonzalez v. Barr*, ---  
18           F.3d ---, 2020 WL 1684034 (9th Cir. Apr. 7, 2020).

19           45. Since *Jennings*, numerous district courts in this circuit and others have concluded that  
20           due process requires the government to prove by *clear and convincing* evidence that a  
21           non-citizen is a flight risk or a danger to the community to justify denial of bond. E.g.,  
22           *Ixchop Perez v. McAleenan*, --- F. Supp. 3d ---, 2020 WL 1181492, at \*4 (N.D. Cal. Jan.  
23           23, 2020) (rejecting the government's "attempt to cabin *Singh* to only apply to *Casas*  
24           hearings" as "illogical" since such interpretation would "create a system in which a

1 detained noncitizen bears the burden at their initial bond hearing, but the burden then  
2 shifts at a *Casas* hearing”); *Singh v. Barr* (“*Singh v. Barr*”), 400 F. Supp. 3d 1005,  
3 1017-18 (S.D. Cal. 2019) (“Because *Jennings* expressly addressed itself to the  
4 mandates of the INA, and not the Constitution, the procedural due process holding[ ]  
5 in *Singh* . . . still stand[s.]”); *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 775 (N.D.  
6 Cal. 2019); *Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1033 n.8 (W.D. Was.  
7 2019); *Cortez v. Sessions*, 318 F. Supp. 3d 1134 (N.D. Cal. 2018), *appeal dismissed*,  
8 2018 WL 4173027 (9th Cir. July 25, 2018); *Ramos v. Sessions*, 293 F. Supp. 3d 1021,  
9 1029-30 (N.D. Cal. 2018).; *Diaz-Ceja v. McAleenan*, No. 19-CV-00824-NYW, 2019  
10 WL 2774211, at \*11 (D. Colo. July 2, 2019); *Darko v. Sessions*, 342 F. Supp. 3d 429  
11 (S.D. N.Y. 2018); *Linares Martinez v. Decker*, 2018 WL 5023946, at \*4 (S.D. N.Y.  
12 Oct. 17, 2018); *Sajous v. Decker*, No. 28 Civ. 2447 (AJN), 208 WL 2357266, at \*12  
13 (S.D. N.Y. May 23, 2018); *Hernandez v. Decker*, No. 18 Civ. 5026 (ALC), 2018 WL  
14 3579108, at \*10 (S.D. N.Y. July 25, 2018); *Frederic v. Edwards*, No. 18 Civ. 5540  
15 (AT), Docket No. 13 (S.D. N.Y. July 19, 2018); *Figueroa v. McDonald*, No. 18-CV-  
16 10097 (PBS), --- F. Supp. 3d ---, --- 2018 WL 2209217, at \*5 (D. Mass. May 17, 2018);  
17 *Pensamiento*, 315 F. Supp. 3d 684, 692 (D. Mass. 2018); *Portillo v. Hott*, 322 F. Supp.  
18 3d 698, 709 n.9 (E.D. Va. 2018).

19 46. Further, honorable district court judges in this Court have concluded that fundamental  
20 due process requires the government at any Bond proceedings to prove by the legal  
21 standard of *clear and convincing* evidence that a noncitizen is a *flight risk or danger to*  
22 *the community* to justify the denial of bond.  
23  
24

1 47. In *Sinsaeng v. Lynch*, the District of Arizona, applying *Singh v. Holder*, recognized that  
2 “the clear and convincing evidence standard applies at a Casas bond hearing in  
3 determining whether the continued detention of an alien is justified.”

4 48. More recently, in *Arido-Sorro v. Garland*, this Court recommended granting habeas  
5 relief and ordering an individualized bond hearing at which “Respondents must  
6 establish at that hearing by clear and convincing evidence that Petitioner is a flight risk  
7 or a danger to the community in order to continue his detention.” These decisions  
8 implement binding Ninth Circuit precedent holding that, in prolonged-detention cases,  
9 the Government bears the burden to justify detention by clear and convincing evidence  
10 of flight risk or dangerousness. *See Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir.  
11 2011); *Flores Tejada v. Godfrey*, 954 F.3d 1245, 1249 (9th Cir. 2020).

12 49. The Fifth Amendment requires that, before depriving a person of his liberty, the  
13 government allow that person to be heard at a meaningful time and in a meaningful  
14 manner. *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The determination of whether  
15 particular government conduct violates this procedural due process balances (1) the  
16 private interest affected by the official action; (2) the risk of erroneous deprivation of  
17 the interest and value (if any) of additional or substitute procedural safeguards; and (3)  
18 the government’s interest, including the burden that additional or substitute procedural  
19 requirements would impose. *Id.* at 335.

20 50. To conform to the requirements of due process, such a hearing must take place before  
21 an independent and impartial adjudicator. *Id.* at 334-35. The requirement that the  
22 government bear the burden of proof by *clear and convincing* evidence is also  
23 supported by application of the three-factor balancing test from *Mathews v. Eldridge*,  
24 424 U.S. 319, 335 (1976).

1 51. First, prolonged incarceration deprives noncitizens of a “profound” liberty interest. *See*  
2 *Diouf II*, 634 F.3d at 1091–92 (9th Cir. 2011). Second, the risk of error is heavily great  
3 where the government is represented by trained and qualified attorneys and detained  
4 noncitizens, as it is in this present case, are often unrepresented and frequently lack  
5 English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear  
6 and convincing evidence at parental termination proceedings because “numerous  
7 factors combine to magnify the risk of erroneous factfinding” including that “parents  
8 subject to termination proceedings are often poor, uneducated, or members of minority  
9 groups” and “[t]he State’s attorney usually will be expert on the issues contested”).

10 52. Even more, detainees are incarcerated in prison-like conditions that severely hamper  
11 their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

12 *See, infra.*

13 53. Third, placing the burden on the government imposes minimal cost or inconvenience,  
14 as the government has access to the noncitizen’s immigration records and other  
15 information that it can use to make its case for continued detention.

16 54. Due process also requires consideration of non-punitive alternatives to detention. The  
17 primary purpose of immigration detention is to ensure a noncitizen’s appearance during  
18 removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related  
19 to this purpose if there are alternative conditions of release that could mitigate risk of  
20 flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

21 55. ICE’s alternatives to detention program—the Intensive Supervision Appearance  
22 Program (“ISAP”)—has achieved extraordinary success in ensuring appearance at  
23 removal proceedings, reaching compliance rates close to 100 percent. *Hernandez v.*  
24 *Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99%

1 attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It  
2 follows that alternatives to detention must be considered in determining whether  
3 prolonged incarceration is warranted.

4 **56.** While detention pending removal proceedings is constitutionally permissible, it must  
5 comport with due process. Among other requirements, the government must justify  
6 prolonged detention with clear and convincing evidence that the noncitizen presents a  
7 current flight risk or danger to the community.

8 **57.** *Dangerousness cannot be based on criminal history alone*; the severity and recency of  
9 the criminal conduct must be taken into account. The IJ also must consider *changes in*  
10 *circumstances that would make recidivism less likely.*

11 **58.** Finally, although the Court cannot review the IJ’s discretionary judgement, it may  
12 review the record for constitutional claims and legal error and to ensure that the clear  
13 and convincing evidence standard is met as a matter of law. *Calderon-Rodriguez v.*  
14 *Wilcox*, 374 F. Supp. 3d 1024, 2033 n.8 (W.D. Wash. 2019).

15 **59.** The following facts establish the government will not meet its Burden of Proof i.e.,  
16 “*clear and convincing*” evidence of dangerousness as a matter of law: Petitioner does  
17 not pose a danger to persons or property. He lacks felony convictions and is not under  
18 any criminal proceedings. Petitioner’s compelling circumstances serve as sufficient  
19 demonstration that he is not a flight risk as he fled from El Salvador with his family to  
20 seek Political Asylum based on a “well-founded” fear of persecution and torture.

21 **60.** In this case, Petitioner has a strong support system in the United States to ensure he  
22 reintegrates into his community successfully. “The right to life is fundamental and is  
23 protected against unreasonable or unlawful taking by the procedural due process

1 safeguards of the fifth and fourteenth amendments.” *Landrum v. Moats*, 576 F.2d 1320,  
2 1325 (8th Cir. 2021).

3 **61.** This Court should hold that civil immigration detention violates due process if it is not  
4 reasonably related to its statutory purpose. *See id.* (citing *Jackson v. Indiana*, 406 U.S.  
5 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only  
6 two valid purposes for civil detention: to mitigate the risk of flight and prevent danger  
7 to the community. *Id.* Petitioner's prolonged civil detention, which is likely to continue  
8 indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring  
9 imminent removal. Thus, Petitioner's detention violates his right to due process.

10 **62.** To the extent ICE may argue that it can continue indefinitely detaining Petitioner on  
11 the grounds that he is "specially dangerous", ICE has not even attempted to comply  
12 with its own extensive procedures to obtain such a classification. *See* 8 C.F.R. §  
13 241.14(f)-(g), (i). *See also, Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL  
14 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for  
15 seventeen months after Iranian officials failed to respond to a travel document request  
16 for more than seven months). Petitioner cannot be removed to Afghanistan and  
17 Respondents cannot provide a date where Petitioner would be removed in the  
18 foreseeable future.

19 **63.** This is a case where ICE has not obtained a certification of special dangerousness from  
20 the Commissioner, it has not ordered that Petitioner undergo a medical examination,  
21 and it has not initiated a reasonable cause proceeding in Immigration Court. In fact,  
22 ICE's own regulations provide that without proving "special dangerousness" by clear  
23 and convincing evidence before an IJ, ICE does not have the ability to indefinitely  
24 detain an alien who has no significant likelihood of being removed within a six-month

1 period.

2 64. In short, ICE has not followed its own rules, or the due process demanded by the United  
3 States Constitution and by *Zadvydas*.

4 65. The upshot, Petitioner's indefinite detention violates the detention statute and is  
5 unconstitutional because the Supreme Court has held that a noncitizen cannot be  
6 detained indefinitely in a removable but-not-removable status; the most common  
7 situation occurs when no country can be found to accept the noncitizen. *Zadvydas*, 533  
8 U.S. 678.

9 66. The Ninth Circuit has recognized that "prolonged detention without adequate  
10 procedural protections would raise serious constitutional concerns." *Rodriguez v.*  
11 *Robbins*, 804 F.3d 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct.  
12 830 (2018). The deprivation of liberty is the quintessential form of irreparable harm.

13 67. Courts have recognized that the loss of family unity and the resulting emotional trauma  
14 constitute irreparable harm warranting judicial intervention. *See Leiva-Perez v. Holder*,  
15 640 F.3d 962, 968 (9th Cir. 2011) (per curiam) (irreparable harm established where  
16 removal or detention would cause separation from family and loss of stability); *Ramos*  
17 *v. Nielsen*, 321 F. Supp. 3d 1083, 1114 (N.D. Cal. 2018) (holding that family separation  
18 and loss of parental support amount to irreparable injury).

19 68. In light of these authorities, Petitioner's continued confinement serves no legitimate  
20 government interest and inflicts grave, irreparable harm upon a vulnerable family—  
21 harm that cannot be undone by later judicial relief. Because these facts demonstrate  
22 both a constitutional violation and the existence of irreparable injury, the Court should  
23 exercise its equitable authority under 28 U.S.C. § 2241 to grant habeas relief to prevent  
24 further suffering, *inter alia*, and to serve in the interests of justice and fairness.

1 69. Accordingly, Petitioner respectfully requests that this Court order Respondents to show  
2 cause why the writ should not be granted "within three days unless for good cause  
3 additional time, not exceeding twenty days, is allowed," and set a hearing on this  
4 Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ  
5 of Habeas Corpus ordering Respondents to immediately release Petitioner.

6 70. In turn, Due Process likewise requires consideration of a noncitizen's ability to pay a  
7 bond. "Detention of an indigent 'for inability to post money bail' is impermissible if  
8 the individual's 'appearance at trial could reasonably be assured by one of the alternate  
9 forms of release.'" *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th  
10 Cir. 1978) (en banc). It follows that—in determining the appropriate conditions of  
11 release for immigration detainees—due process requires "consideration of financial  
12 circumstances and alternative conditions of release" to prevent against detention based  
13 on poverty. *Id.* At the present time Petitioner has limited finances to post a bond  
14 because of his continued detention since November 22, 2022.

15 **CLAIMS FOR RELIEF**

16 **FIRST CLAIM FOR RELIEF IN VIOLATION OF DUE PROCESS CLAUSE OF THE**  
17 **FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

18 71. All persons, including aliens, residing in the United States are protected by the Due  
19 Process Clause of the Fifth Amendment to the United States Constitution. *See Zadvydas*  
20 *v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982). The Due  
21 Process Clause of the Fifth Amendment provides that "[n]o person shall be ... deprived  
22 of life, liberty, or property, without due process of law." *U.S. Const., amend. V.*  
23 "Freedom from imprisonment—from government custody, detention, or other forms of  
24 physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533

1 U.S. at 690. Because Petitioner's detention threatens to take his liberty, he is entitled  
2 to the protections of due process under the Fifth Amendment, in spite of the  
3 Respondents' otherwise lawful authority to detain the Petition.

4 72. Detention by the Respondents puts at risk Petitioner's protected liberty interest. The  
5 Due Process Clause of the Fifth Amendment forbids the government from depriving  
6 any "person" of liberty "without due process of law." *See U.S. Const. amen. V.*

7 73. To justify Petitioner's ongoing prolonged detention, due process requires that the  
8 Government establish, at an individual hearing before a neutral decisionmaker, that  
9 Petitioner's detention is justified by *clear and convincing evidence* of flight risk or  
10 danger, even after consideration whether alternatives to detention could sufficiently  
11 mitigate that risk. Petitioner incorporates by reference the paragraphs above.

12 74. Based on the laws and facts, Petitioner's ongoing detention without a fair and impartial  
13 hearing where the Immigration Court holds proper jurisdiction violates due process.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Petitioner respectfully requests and prays for this Court:

16 75. Assume jurisdiction over this matter;

17 76. Issue a Writ of Habeas Corpus; hold a hearing before this Court if warranted; determine  
18 that Petitioner's detention is not justified because the government has not established  
19 by *clear and convincing evidence* that Petitioner presents a risk of flight or *danger* in  
20 light of available alternatives to detention; and order Petitioner's release, with  
21 appropriate conditions of supervision if necessary, taking into account Petitioner's  
22 ability to pay a bond;

23 77. In the alternative, issue a Writ of Habeas Corpus and order Petitioner's release within  
24 twenty ("20") days, unless the Respondents schedule a hearing before an immigration

1 judge where it has proper jurisdiction and where: (1) to continue detention, the  
2 government must establish by clear and convincing evidence that Petitioner presents a  
3 risk of flight or danger, even after consideration of alternatives to detention that could  
4 mitigate any risk that Petitioner's release would present; and (2) if the government  
5 cannot meet its burden, the immigration judge order Petitioner's release on appropriate  
6 conditions of supervision, taking into consideration Petitioner's ability to pay a bond.


7 **78. Issue a declaration that Petitioner's ongoing detention violates the Due Process Clause**  
8 **of the Fifth Amendment and the Eighth Amendment;**

9 **79. Award attorney's fees, costs, and expenses as provided for by the Equal Access to**  
10 **Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412(2), and other statute; and**

11 **80. Grant such further relief as this Court deems just and proper.**

12  
13 **Respectfully submitted on this 12<sup>th</sup> day of December, 2025.**

14  
15  
16 J. A. M. Q.  
17 Jose Alberto Miron Quijano

18 Alien No.   
19 San Luis Regional Detention Center  
20 406 N Ave D  
21 San Luis, AZ 85349  
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**ACKNOWLEDGEMENT AND VERIFICATION**

7  
8 Under penalty of perjury, the undersigned declares that he is the named Petitioner in the  
9 foregoing petition. I have read the foregoing petition and its contents. The statements in the  
10 petition are true and correct to the best of my knowledge, except as to any statements alleged  
11 on information and belief, and as to those statements, I believe them to be true.

12  
13 **DATED this 12th day of December, 2025.**

14  
15  
16 J.A.M.Q.

17 -Petitioner, *Pro Se*

18 Jose Alberto Miron Quijano

19 Alien No. 

20 San Luis Regional Detention Center

21 406 N Ave D

22 San Luis, AZ 85349

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**MOTION AND DECLARATION UNDER PENALTY OF PERJURY IN  
SUPPORT OF MOTION TO PROCEED  
*IN FORMA PAUPERIS***

**JOSE ALBERTO MIRON QUIJANO**  
**ALIEN No. **  
**PETITIONER, PRO SE**  
**CUSTODY STATUS: DETAINED**

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

JOSE ALBERTO MIRON QUIJANO  
ALIEN No. ~~XXXXXXXXXX~~  
PETITIONER, PRO SE  
CUSTODY STATUS: DETAINED