

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Linda Brilly OSORIO MADRID,

Petitioner,

v.

Laura HERMOSILLO, Seattle Acting Field
Office Director, Enforcement and Removal
Operations, Immigration and Customs
Enforcement (ICE); Kristi NOEM, Secretary,
U.S. Department of Homeland Security;
Pamela BONDI, U.S. Attorney General; Bruce
SCOTT, Warden of Northwest ICE Processing
Center,

Respondents.

Case No. _____

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

PETITION FOR WRIT OF HABEAS CORPUS - 1
Case No. _____

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INTRODUCTION

1. Petitioner Linda Brilly Osorio Madrid is a noncitizen in the custody of U.S. Immigration and Customs Enforcement (“ICE”) at the Northwest ICE Processing Center (“NWIPC”) in Tacoma, Washington. She has been detained for over eight months—since April 18, 2025.

2. Ms. Osorio Madrid has been granted Special Immigrant Juvenile (“SIJ”) status by U.S. Citizenship and Immigration Services (“USCIS”), meaning that she is statutorily eligible to adjust status to that of a permanent resident once a visa becomes available and her I-360 priority date is current. Ex. 1, I-360 Approval.

3. As a SIJ, Ms. Osorio Madrid is also entitled to a deferred action adjudication. On November 19, 2025, Judge Eric Komitee stayed USCIS’s rescission of the existing deferred action program for young people with SIJ status (“SIJS”), holding that the rescission violated the Administrative Procedure Act. *A.C.R. v. Noem*, --- F. Supp. 3d. ----, 2025 WL 3228840 (E.D.N.Y. Nov. 19, 2025). USCIS is therefore obligated to conduct a deferred action adjudication for Ms. Osorio Madrid under the March 7, 2022 SIJs Deferred Action Policy Alert (“2022 SIJS Policy”). USCIS, Policy Alert: Special Immigrant Juvenile Classification and Deferred Action, PA-2022-10 (Mar. 7, 2022) (last accessed Dec. 23, 2025), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf> (explaining that USCIS shall “automatically conduct deferred action determinations for noncitizens with SIJ classification who cannot apply for adjustment of status solely because an immigrant visa number is not immediately available”). A grant of deferred action, which Ms. Osorio Madrid is likely to receive, would “prevent[] [her] removal from the United States.” *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 912 (W.D. Wash. 2025).

4. Ms. Osorio Madrid also has a pending asylum application before USCIS.

5. Ms. Osorio Madrid’s pending USCIS adjudications must take place before a final hearing will be scheduled in her removal proceedings before the immigration judge (“IJ”).

6. Absent this Court's intervention, Ms. Osorio Madrid may remain detained for months or years longer without a bond hearing. It is not clear when USCIS will complete her SIJ deferred action or asylum adjudications. Ms. Osorio Madrid's arbitrary, prolonged detention is likely to continue at least until those adjudications are completed.

7. The Due Process Clause of the Fifth Amendment forbids such arbitrary and prolonged detention. Respondents have never justified Ms. Osorio Madrid's detention at a hearing before a neutral decisionmaker with any evidence of danger or flight risk.

8. Accordingly, Ms. Osorio Madrid asks this Court for a writ of habeas corpus to vindicate her right to process and to seek relief from her continued arbitrary detention. She requests that the Court declare her continued detention unconstitutional as applied to her, and to require that the government prove before a neutral decisionmaker that any further detention is justified by clear and convincing evidence.

JURISDICTION

9. Ms. Osorio Madrid is in the physical custody of Respondents and ICE, an agency within the U.S. Department of Homeland Security (“DHS”). Ms. Osorio Madrid is detained at the NWIPC in Tacoma, Washington, under the direct control of Respondents and their agents.

10. This action arises under the United States Constitution and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, clause 2 of the Constitution (Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

13. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), 1252(f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

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VENUE

14. Venue lies in the United States District Court for the Western District of Washington, the judicial district in which Ms. Osorio Madrid is currently in custody. *Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484, 493–500 (1973).

15. Venue is also proper in this District under 28 U.S.C. § 1391(e). Respondents are employees, officers, and agencies of the United States, and a substantial part of the events or omissions giving rise to these claims occurred in the Western District of Washington.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents “forthwith,” unless Ms. Osorio Madrid is not entitled to relief. 28 U.S.C. § 2243.

17. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus is “a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination”).

PARTIES

18. Petitioner Linda Brilly Osorio Madrid is a citizen of Colombia who first entered the United States as an unaccompanied minor on May 23, 2024. On April 11, 2025, Ms. Osorio Madrid entered Canada with a caretaker, but later returned to the United States. Ms. Osorio Madrid was subsequently arrested upon reentry to the United States and has been detained at NWIPC ever since.

19. Respondent Laura Hermosillo is the Seattle Acting Field Office Director of ICE’s Enforcement and Removal Operations division. Ms. Hermosillo is Ms. Osorio Madrid’s immediate custodian and is responsible for her detention. Ms. Hermosillo is named in her official capacity.

20. Respondent Kristi Noem, the Secretary of DHS, is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Ms. Osorio Madrid's detention. Ms. Noem has ultimate custodial authority over Ms. Osorio Madrid and is sued in her official capacity.

21. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

22. Respondent Bruce Scott is employed by the private corporation GEO Group, Inc., as Warden of the NWIPC, where Ms. Osorio Madrid is detained. He has immediate physical custody of Ms. Osorio Madrid. He is sued in his official capacity.

FACTUAL ALLEGATIONS

23. Linda Brilly Osorio Madrid is a citizen of Colombia who first entered the United States as an unaccompanied minor in 2024. Ex. 2, Osorio Madrid Decl. ¶ 3.

24. Ms. Osorio Madrid was abused, neglected, and abandoned by her mother and father in Colombia. The Pierce County Superior Court determined that Ms. Osorio Madrid's mother 

 but did not protect Ms. Osorio Madrid from that abuse. Ex. 3, Amended SIJ Order. The Superior Court found that Ms. Osorio Madrid's mother and father both abandoned her by the time she was seven years old. *Id.*

25. At age seven, Ms. Osorio Madrid was taken in by Nelly Yesenia Salazar Diaz, a family friend. Ex. 2, Osorio Madrid Decl. ¶¶ 2–4.

26. Ms. Osorio Madrid fled Colombia with Ms. Salazar Diaz following threats from [REDACTED]

[REDACTED]

association with her father.

27. On April 11, 2025, Ms. Osorio Madrid, Ms. Salazar Diaz, and other members of Ms. Salazar Diaz's family entered Canada, but Ms. Osorio Madrid was told to return to the border a week later. *Id.* ¶ 4. On April 18, 2025, Ms. Osorio Madrid returned to the border, was taken into custody by an immigration officer, and was sent to NWIPC. *Id.*

28. On October 25, 2025, Ms. Osorio Madrid was granted SIJS by USCIS, meaning that she is entitled to a deferred action adjudication and is eligible to seek adjustment of status once a visa becomes available. Ex. 1, I-360 Approval.

29. Ms. Osorio Madrid also has a pending asylum application filed with USCIS, based on her prior status as an unaccompanied minor.

30. Ms. Osorio Madrid's removal proceedings will not resolve until after USCIS has completed its SIJ deferred action and asylum adjudications. In a November 24, 2025 Order, the IJ explained that "DHS will agree to continuances for the adjudication of the I589 and I360 by USCIS as required by JOP." Ex. 4, IJ Order (referring to the settlement agreement in *J.O.P. v. DHS*, No. 8:19-cv-01944-SAG (D. Md. July 30, 2024)).

31. The Tacoma Immigration Court considers Ms. Osorio Madrid to be subject to mandatory detention under 8 U.S.C. § 1225(b). Accordingly, she has never received a hearing before a neutral decisionmaker where the government was required to justify her continued detention by clear and convincing evidence.

32. In total, Ms. Osorio Madrid has already been detained over eight months without any individualized determination of danger or flight risk.

LEGAL FRAMEWORK

33. The Due Process Clause of the Fifth Amendment protects Ms. Osorio Madrid against arbitrary detention without procedures to determine if she is a flight risk or danger. As the Supreme Court has explained, “[f]reedom 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 v. Davis*, 533 U.S. 678, 690 (2001).

1 34. The INA authorizes three basic forms of detention for noncitizens in removal
2 proceedings. The first is detention for noncitizens in regular, non-expedited removal proceedings.
3 *See* 8 U.S.C. § 1226(a). Individuals in § 1226(a) detention are entitled to a bond hearing at the
4 outset of their detention, while noncitizens who have committed certain crimes are subject to
5 mandatory detention. *See id.* § 1226(c). Second, the INA also provides for mandatory detention for
6 noncitizens in expedited removal proceedings and others arriving in the United States. *Id.*
7 § 1225(b). Last, the statute provides for detention for noncitizens who are subject to a final removal
8 order. *Id.* § 1231(a)(6). *See also Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111–13 (W.D. Wash.
9 2019) (providing overview of INA’s detention authorities).

10 35. The Supreme Court has addressed the constitutionality of mandatory detention in
11 *Demore v. Kim*, 538 U.S. 510 (2003). There, the Supreme Court denied a facial challenge to
12 mandatory detention under § 1226(c), which asserted that the statute was unconstitutional because
13 it imposed mandatory detention without a custody hearing. However, the Supreme Court
14 emphasized that such detention was typically “brief” in length and lasted “roughly a month and a
15 half in the vast majority of cases . . . and about five months in the minority of cases in which the
16 [non-citizen] chooses to appeal.” 538 U.S. at 513, 530. The Court also upheld the statute in part
17 because it was based on a voluminous congressional record that supported the need for detention
18 as to individuals convicted of certain crimes. *See id.* at 518–20.

19 36. Notably, Justice Kennedy—who provided the fifth vote for the majority on the
20 constitutional issue—penned a concurrence that reasoned detention may eventually become
21 sufficiently lengthy that a hearing to justify continued detention is constitutionally required. 538
22 U.S. at 532–33 (Kennedy, J., concurring).

23 37. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court again addressed
24 the mandatory detention provision of § 1226(c), as well as the one at § 1225(b). There, the Court
25 held that, as a matter of statutory interpretation, those sections did not require the government to
26 provide a detainee subject to prolonged detention with a bond hearing. Significantly, the Court did
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1 not reach the constitutional question of whether the Due Process Clause requires an opportunity to
2 test the government's justification for detention once that detention becomes prolonged.

3 38. Since the Supreme Court's *Jennings* decision, the Ninth Circuit has expressed
4 "grave doubt" that "any statute that allows for arbitrary prolonged detention without any process is
5 constitutional or that those who founded our democracy precisely to protect against the
6 government's arbitrary deprivation of liberty would have thought so." *Rodriguez v. Marin*, 909 F.3d
7 252, 256 (9th Cir. 2018).

8 39. To guard against such arbitrary detention and to guarantee the right to liberty, due
9 process requires "adequate procedural protections" that ensure the government's asserted
10 justification for a noncitizen's physical confinement "outweighs the individual's constitutionally
11 protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation
12 marks omitted).

13 40. In the immigration context, the Supreme Court has recognized two primary purposes
14 for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; see
15 also *Demore*, 538 U.S. at 522, 528. The government may not detain a noncitizen based on other
16 justifications.

17 41. As a result, where the government detains a noncitizen for a prolonged period while
18 the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an
19 individualized hearing before a neutral decisionmaker to determine whether detention remains
20 reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that
21 an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be
22 warranted "if the continued detention became unreasonable or unjustified"); cf. *Jackson v. Indiana*,
23 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional
24 safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249–50 (1972) (noting that "lesser
25 safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685–
26 86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be
27 ignored in deciding whether [a] confinement meets constitutional standards").

1 42. Detention without a bond hearing is unconstitutional when it becomes prolonged.
2 *See, e.g., Rodriguez*, 909 F.3d at 256; *see also Zadvydas*, 533 U.S. at 701 (“Congress previously
3 doubted the constitutionality of detention for more than six months.”).

4 43. The recognition that six months constitutes a substantial period of confinement that
5 qualifies as prolonged detention is deeply rooted in our legal tradition. With only a few exceptions,
6 “in the late 18th century in America crimes triable without a jury were for the most part punishable
7 by no more than a six-month prison term.” *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968).
8 Consistent with this tradition, the Supreme Court has found six months to be the limit of
9 confinement for a criminal offense that a federal court may impose without the protection afforded
10 by a jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has
11 also looked to six months as a benchmark in other contexts involving civil detention. *See McNeil*,
12 407 U.S. at 249, 250–52 (recognizing six months as an outer limit for confinement without
13 individualized inquiry in the civil commitment context).

14 44. In addition, both the Supreme Court and Ninth Circuit have long made clear that a
15 significant time in civil detention warrants an opportunity to test the legality of that detention. As
16 the Ninth Circuit has explained in the pretrial detention context, “[i]t is undisputed that at some
17 point, [civil] detention can ‘become excessively prolonged, and therefore punitive,’ resulting in a
18 due process violation.” *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021) (quoting *United*
19 *States v. Salerno*, 481 U.S. 739, 747 n.4 (1987)). That is especially true where the initial detention
20 decision lacks significant (or any) safeguards, as is the case here. *See O’Connor v. Donaldson*, 422
21 U.S. 563, 574–75 (1975) (“Nor is it enough that Donaldson’s original confinement was founded
22 upon a constitutionally adequate basis, if in fact it was, because even if his involuntary confinement
23 was initially permissible, it could not constitutionally continue after that basis no longer existed.”);
24 *McNeil*, 407 U.S. at 249–50 (explaining that as the length of civil detention increases, more
25 substantial safeguards are required).

26 45. These principles have “[o]verwhelmingly[] [led the] district courts that have
27 considered the constitutionality of prolonged mandatory detention—including . . . other judges in

1 this District[] [to] agree that prolonged mandatory detention pending removal proceedings, without
2 a bond hearing, will—at some point—violate the right to due process.” *Diaz Reyes v. Wolf*, No.
3 C20-0377-JLR-MAT, 2020 WL 6820903, at *3 (W.D. Wash. Aug. 7, 2020) (internal quotation
4 marks omitted), *R&R adopted as modified*, No. C20-0377JLR, 2020 WL 6820822 (W.D. Wash.
5 Nov. 20, 2020); *see also Parada Calderon v. Bostock*, No. 2:24-CV-01619-MJP-GJL, 2025 WL
6 1047578, at *4 (W.D. Wash. Jan. 17, 2025) (similar), *R&R adopted in part, rejected in part*, No.
7 2:24-CV-01619-MJP-GJL, 2025 WL 879718 (W.D. Wash. Mar. 21, 2025). Indeed, “[i]n the
8 context of immigration detention, it is well-settled that due process requires adequate procedural
9 protections to ensure that the government’s asserted justification for physical confinement
10 outweighs the individual’s constitutionally protected interest in avoiding physical restraint.”
11 *Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017).

12 46. Courts assessing whether a detained noncitizen is entitled to a hearing as a matter of
13 due process typically employ one of two tests: a multi-factor test or the test found in *Mathews v.*
14 *Eldridge*, 424 U.S. 319 (1976). Courts in this district generally employ a multi-factor test. *See*
15 *Djelassi v. ICE Field Off. Dir.*, 434 F. Supp. 3d 917, 929 (W.D. Wash. 2020); *Banda*, 385 F. Supp.
16 3d at 1106. Ms. Osorio Madrid merits a bond hearing under either test.

17 47. Under the multi-factor test, courts look to “(1) the total length of detention to date;
18 (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the removal
19 proceedings caused by the detainee; (5) delays in the removal proceedings cause[d] by the
20 government; and (6) the likelihood that the removal proceedings will result in a final order of
21 removal.” *Banda*, 385 F. Supp. 3d at 1106 (citation omitted). The length of detention is the “most
22 important factor.” *Id.* at 1118.

23 48. The application of this test demonstrates that Ms. Osorio Madrid is entitled to a bond
24 hearing. She has been detained for over eight months and is likely to remain detained until the
25 conclusion of any active removal proceedings. Her removal proceedings cannot continue until
26 USCIS completes her SIJ deferred action and asylum adjudications. There is no clear timeframe for
27 either adjudication. *See A.C.R. v. Noem*, 2025 WL 3228840 at *17 (granting stay under which “[t]he

1 government must . . . conduct deferred-action . . . adjudications pursuant to the 2022 Policy Alert,”
 2 but holding that the court could not issue an injunction ordering USCIS to conduct those
 3 adjudications on any particular timeframe); USCIS, Policy Memorandum: Hold and Review of all
 4 Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk
 5 Countries, PM-602-0192 (Dec. 2, 2025) (last accessed Dec. 23, 2025), [https://www.uscis.gov/
 6 sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-
 7 20251202.pdf](https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf) (directing USCIS to “[p]lace a hold on all Forms I-589 . . . , regardless of the alien’s
 8 country of nationality, pending a comprehensive review”). If relief is denied, such that her removal
 9 proceedings proceed, Ms. Osorio Madrid will remain detained until all appeals are exhausted in her
 10 case, which can take approximately 18 additional months.

11 49. Courts regularly afford noncitizens a bond hearing after facing similar periods of
 12 detention. *See, e.g., Banda*, 385 F. Supp. 3d at 1118 (nothing that 17 months of detention was a
 13 “very long time” that “strongly favor[ed] granting a bond hearing”); *Lopez v. Garland*, 631 F. Supp.
 14 3d 870, 879 (E.D. Cal. 2022) (“Petitioner has been in immigration detention since September 10,
 15 2021—approximately one year. District courts have found shorter lengths of detention pursuant to
 16 1226(c) without a bond hearing to be unreasonable.”); *Gonzalez v. Bonnar*, No. 18-cv-05321-JSC,
 17 2019 WL 330906, at *5 (N.D. Cal. Jan. 25, 2019) (detention of just over a year that would last
 18 several more months favored granting bond hearing); *Martinez v. Clark*, No. C18-1669-RAJ-MAT,
 19 2019 WL 5968089, at *1 (W.D. Wash. May 23, 2019), *R&R adopted*, No. 18-CV-01669-RAJ, 2019
 20 WL 5962685 (W.D. Wash. Nov. 13, 2019) (detention of 13 months favored granting bond hearing);
 21 *Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (same, for 7 months); *Liban M.J. v.*
 22 *Sec’y of DHS*, 367 F. Supp. 3d 959, 963 (D. Minn. 2019) (same, for 12 months).

23 50. The punitive and restrictive conditions at NWIPC also support affording Ms. Osorio
 24 Madrid a hearing. Those conditions “are similar . . . to those in many prisons and jails,” despite her
 25 ostensible status as a “civil” detainee. *Diaz Reyes*, 2020 WL 6820903, at *7 (alteration in original);
 26 *see also, e.g., Parada Calderon*, 2025 WL 879718, at *4 (concluding this factor favored petitioner);
 27 *Sarr v. Scott*, 765 F.Supp.3d 1091, 1103 (W.D. Wash. 2025) (same).

1 51. Indeed, Ms. Osorio Madrid's experience demonstrates that NWIPC is, for all intents
2 and purposes, a prison: she is confined in a restrictive setting, where she is only allowed outside for
3 an hour and is locked in her cell for ten hours each day. Ex. 2, Osorio Madrid Decl. ¶ 6. The food
4 is insufficient and dangerous: people have repeatedly reported finding metal in their food, and Ms.
5 Osorio Madrid has been fed cinnamon, despite informing the staff that she is allergic. *Id.* ¶ 8. When
6 people complain about their food—due to metal or allergens—they are not provided alternatives.
7 *Id.* Ms. Osorio Madrid has been diagnosed with post-traumatic stress disorder, major depressive
8 disorder, and general anxiety disorder. *Id.* ¶ 7. Her mental health has worsened in detention, where
9 she has been isolated from her loved ones. *Id.* The guards even separated her from the only friend
10 she'd made at the detention center, for sitting on the same bed watching a movie—which is not
11 against the rules. *Id.* ¶ 6. Anyone accused of misbehaving by the guards is taken away and put into
12 isolation. *Id.* In detention, Ms. Osorio Madrid has suffered daily panic, flashbacks, nightmares,
13 crying spells, and dissociation. *Id.* ¶ 9. Her physical health has also worsened in detention, due to
14 delays in requested medical care. *Id.* ¶ 10. Reports by independent outside entities have also
15 documented problems with food, medical neglect, cleanliness, and other issues at NWIPC. *See*
16 Univ. of Wash. Ctr. for Hum. Rts., Conditions at the Northwest Detention Center (last accessed
17 Sept. 4, 2025), [https://jsis.washington.edu/humanrights/projects/human-rights-at-home/conditions-](https://jsis.washington.edu/humanrights/projects/human-rights-at-home/conditions-at-the-northwest-detention-center/)
18 [at-the-northwest-detention-center/](https://jsis.washington.edu/humanrights/projects/human-rights-at-home/conditions-at-the-northwest-detention-center/).

19 52. The delay factor is neutral. Ms. Osorio Madrid has not caused any delay in her case.

20 53. Finally, USCIS has already approved Ms. Osorio Madrid's SIJS petition. Ms. Osorio
21 Madrid is therefore entitled to SIJ deferred action adjudication, which she is likely to receive. Ms.
22 Osorio Madrid also has a pending asylum application before USCIS. This final factor therefore also
23 favors Ms. Osorio Madrid.

24 54. As a result, due process demands that Ms. Osorio Madrid receives a bond hearing.

25 55. A similar result occurs under application of the three-factor test in *Mathews*. That
26 test looks to (1) the petitioner's interest, (2) the value of additional procedural protections, and (3)
27 any burden on the government in providing additional protections. 424 U.S. at 335.

1 56. First, Ms. Osorio Madrid's interest is at its zenith: she has a powerful interest in her
2 physical liberty, as the Supreme Court, the Ninth Circuit, and this Court have repeatedly made clear.
3 That interest is underscored by the fact that she has already been granted SIJS: both the state and
4 federal governments have acknowledged that it is not in Ms. Osorio Madrid's best interest to be
5 returned to Colombia, and that she should instead remain in the United States with her court-
6 appointed vulnerable youth guardian. Courts have recognized the unique position of SIJ recipients.
7 *See Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1085 (9th Cir. 2025) ("SIJ status is a form of parole
8 that confers eligibility for adjustment to [lawful permanent resident] status to noncitizen minors
9 who have been abused, abandoned, or neglected."); *Osorio-Martinez v. Att'y Gen. United States of*
10 *Am.*, 893 F.3d 153, 174 (3d Cir. 2018) ("Because of the rights and benefits they have been accorded,
11 SIJ designees stand much closer to lawful permanent residents than to aliens present in the United
12 States for a few hours before their apprehension.").

13 57. Second, additional protections are warranted here. The statute affords Ms. Osorio
14 Madrid no protection whatsoever and requires her detention. *See* 8 U.S.C. § 1225(b)(2).

15 58. Finally, any burden on the government is minimal. Bond proceedings are short,
16 informal hearings where an IJ typically receives records and testimonial evidence at a hearing and
17 issues an oral ruling. Such hearings do not entail any significant expenditure of government
18 resources. *See* Imm. Ct. Practice Manual ch. 9.3(e). Indeed, releasing Ms. Osorio Madrid alleviates
19 the financial expenses the government must bear for her detention.

20 59. Accordingly, application of the *Mathews* test also requires a bond hearing to justify
21 further detention.

22 60. Due process also requires certain minimal procedures at Ms. Osorio Madrid's bond
23 hearing. First, the government must bear the burden of proof by clear and convincing evidence to
24 justify continued detention. Second, the decisionmaker must consider available alternatives to
25 detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a
26 noncitizen's ability to pay a bond when determining the appropriate conditions of release.

61. To justify prolonged immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof by at least clear and convincing evidence. *See Salerno*, 481 U.S. at 750, 752 (upholding pre-trial detention where the detainee was afforded a “full-blown adversary hearing,” requiring “clear and convincing evidence” before a “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81–83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia*, they placed burden on detainee); *see also Banda*, 385 F. Supp. 3d 1120–21 (requiring application of clear and convincing evidence standard).

62. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews*.

63. First, prolonged incarceration deprives noncitizens of a profound liberty interest—one that always requires some form of procedural protections. *See Foucha*, 504 U.S. at 80 (“It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” (citation omitted)).

64. Second, the risk of error is great where Ms. Osorio Madrid has already been granted SIJS, which provides a path to lawful permanent residence, and is entitled to SIJ deferred action. Furthermore, the government is represented by trained attorneys, while Ms. Osorio Madrid lacks legal training and English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762–63 (1982) (requiring clear and convincing evidence at parental termination proceedings because “numerous factors combine to magnify the risk of erroneous factfinding,” including that “parents subject to termination proceedings are often poor, uneducated, or members of minority groups” and “[t]he State’s attorney usually will be expert on the issues contested”). Moreover, Respondents detain

1 noncitizens in prison-like conditions that severely hamper their ability to obtain evidence and
2 prepare for a bond hearing.

3 65. Third, placing the burden on the government imposes minimal cost or
4 inconvenience, as the government has access to the noncitizen's immigration records and other
5 information that it can use to make its case for continued detention.

6 66. In light of these considerations, "[t]he overwhelming majority of courts to consider
7 the question . . . have concluded that imposing a clear and convincing standard would be most
8 consistent with due process." *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at
9 *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted). Courts in this district regularly
10 impose this requirement. *See Banda*, 385 F. Supp. 3d 1120–21 (requiring clear and convincing
11 evidence); *Djelassi*, 434 F. Supp. 3d at 929 (same); *Diaz Reyes*, 2020 WL 6820903, at *9 (same).

12 67. Due process also requires that a neutral decisionmaker consider available
13 alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's
14 appearance during removal proceedings. Detention is not reasonably related to this purpose if there
15 are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S.
16 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance
17 Program (ISAP)—has achieved compliance rates close to 100 percent. *See Hernandez*, 872 F.3d at
18 991 (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95%
19 attendance rate at final hearings"). It follows that alternatives to detention must be considered in
20 determining whether prolonged incarceration is warranted.

21 68. Due process likewise requires consideration of a noncitizen's ability to pay a bond.
22 "Detention of an indigent 'for inability to post money bail' is impermissible if the individual's
23 'appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Id.* at
24 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)).

25 69. As a result, in determining the appropriate conditions of release for immigration
26 detainees, due process requires "consideration of financial circumstances and alternative conditions
27 of release" to prevent against detention based on poverty. *Id.*

CLAIM FOR RELIEF

28 U.S.C. § 2241

Violation of Fifth Amendment Right to Due Process

1. Petitioner alleges and incorporates by reference the paragraphs above.

2. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

3. Ms. Osorio Madrid’s detention—which has lasted over eight months without a hearing—constitutes prolonged detention and is not reasonably related to a legitimate government purpose.

4. To justify Ms. Osorio Madrid’s ongoing prolonged detention, due process requires an individualized hearing before a neutral decisionmaker where the government must establish that continued detention is justified by clear and convincing evidence of flight risk or danger and that no alternatives to detention could sufficiently mitigate any risk that does exist.

5. For these reasons, Ms. Osorio Madrid’s ongoing detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a Writ of Habeas Corpus and order Petitioner’s release unless Respondents hold a custody hearing for Petitioner before an immigration judge within 14 days. At that hearing, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger and that no alternative to detention can mitigate any risk that her release would present. The Court should further order that if the government cannot meet its burden, the immigration judge must order Petitioner’s release on appropriate conditions of supervision, taking into account her ability to pay a bond;

- 1 c. Alternatively, issue a Writ of Habeas Corpus and hold a hearing before this Court if
2 warranted; determine that Petitioner's detention is not justified because the
3 government has not established by clear and convincing evidence that Petitioner
4 presents a risk of flight or danger in light of available alternatives to detention; and
5 order Petitioner's release, with appropriate conditions of supervision if necessary,
6 taking into account her ability to pay a bond;
- 7 d. Issue a declaration that, as applied in this case, 8 U.S.C. § 1225(b) and Petitioner's
8 prolonged detention under that statute violate the Due Process Clause of the Fifth
9 Amendment;
- 10 e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
11 ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis
12 justified under law; and
- 13 f. Grant any other and further relief that this Court deems just and proper.
- 14

15 Dated: December 24, 2025

Respectfully submitted,

16 By: /s/ Stephen Morrissey

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