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13 UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

14 Juan Carlos Pelagio Mendoza,

15 Petitioner,

16 v.

17 Pam Bondi, *et al.*,

18 Respondents.
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Case No. 2:26-cv-00011-JAD-MDC

First Amended § 2241 Petition

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1 minimum, notice and a meaningful opportunity to be heard before an IJ. Here, ICE
2 dispensed with those constitutional safeguards altogether.

3 Because Petitioner was re-detained without any bond-revocation hearing, his
4 continued custody violates the Fifth Amendment. He seeks a writ of habeas corpus
5 ordering his release and enjoining the government from re-detaining him unless and
6 until it provides a constitutionally adequate bond-revocation hearing before an IJ.

7 JURISDICTION AND VENUE

8 This Court has jurisdiction pursuant to 28 U.S.C. §2241 (granting general
9 habeas authority to district courts); Art. 1 § 9, cl. 2 of the U.S. Constitution (the
10 “Suspension Clause”); 28 U.S.C. §1331 (federal question jurisdiction); and 28 U.S.C.
11 § 2201, 2202 (Declaratory Judgment Act).

12 Federal district courts have jurisdiction to hear habeas claims by non-citizens
13 challenging the lawfulness of their detention. *See, e.g. Zadvydas v. Davis*, 533 U.S.
14 678 (2001).

15 Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28
16 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at
17 Nevada Southern Detention Center.

18 Accordingly, Petitioner’s habeas petition is properly before this court.

19 PARTIES

20 Petitioner is a native and citizen of Mexico who was first detained on April
21 11, 2025, and was granted cancellation of his removal order by an Immigration
22 Judge (IJ) on August 11, 2025.² He is currently detained at the Nevada Southern
23 Detention Center in Pahrump, Nevada.

24 John Mattos is the warden of Nevada Southern Detention Center. He, in his
25 official capacity, is the immediate custodian of Petitioner.

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27 ² Ex. 1.

1 Michael Bernacke is the Field Director of the West Valley City Office of ICE
2 Enforcement and Removal Operations, which has jurisdiction of enforcement and
3 removal operations over detention facilities in Nevada, including Nevada Southern
4 Detention Center where Petitioner is detained. Bernacke, in his official capacity, is
5 a legal custodian of Petitioner.

6 Todd Lyons is the Acting Director of Immigration and Customs Enforcement,
7 which is responsible for administering and enforcing immigration laws, including
8 the detention and removal of immigrants. Lyons, in his official capacity, is a legal
9 custodian of Petitioner.

10 Kristi Noem is the Secretary of the Department of Homeland Security, which
11 oversees ICE. Noem, in her official capacity, is the ultimate legal custodian of
12 Petitioner.

13 Pam Bondi is the Attorney General of the United States. She oversees the
14 immigration court system, which is housed within the Executive Office for
15 Immigration Review (EOIR) and includes all immigration courts and the Board of
16 Immigration Appeals (BIA). She is named in her official capacity.

17 STATEMENT OF FACTS

18 Petitioner Juan Carlos Pelagio Mendoza is a native and citizen of Mexico who
19 has lived in the United States continuously since approximately 1999.³ He is the
20 father of three United States-citizen children, ages sixteen, ten, and seven years old.⁴
21 Petitioner has shared custody of his children with their mother and was living with
22 them prior to his detention.⁵ He provides financial support for his children and has
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25 ³ Ex. 1.

26 ⁴ *Id.*

27 ⁵ *Id.*

1 been a constant presence in their lives.⁶ He serves as a primary source of emotional
2 and financial support.⁷ His oldest son has received therapy for anger-related and
3 emotional issues, and Petitioner plays an essential part in helping his son manage
4 his behavior.⁸

5 Petitioner received a Notice to Appear in immigration proceedings on April 11,
6 2025.⁹ On May 19, 2025, after an initial custody determination, he was released from
7 ICE custody on a \$3,500 bond and permitted to return to the community while his
8 case proceeded.¹⁰

9 On or about June 15, 2025, Petitioner was arrested by local law enforcement
10 on a DUI charge. He has not been convicted of that offense. He was briefly taken into
11 local custody before being handed over to ICE, who has kept him in custody since that
12 date.

13 When Petitioner next appeared before the IJ in late June 2025, the IJ noted
14 that Petitioner had been arrested after his release on bond and stated that the court
15 was unlikely to grant another bond because a condition of the prior bond order
16 prohibited the consumption of alcohol. The court did not conduct a bond revocation
17 hearing, did not take evidence, and did not make findings regarding flight risk or
18 danger to the community. Petitioner has remained in immigration custody since that
19 time. On information and belief, ICE itself also did not provide Petitioner with any
20 process such as an opportunity to present evidence or argue that his bond should not
21 be revoked, nor did it provide any formal revocation procedure or notice of revocation.

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23 ⁶ *Id.*

24 ⁷ *Id.*

25 ⁸ *Id.*

26 ⁹ *Id.*

27 ¹⁰ Any factual allegations that do not cite to a specific document are made on
information and belief.

1 Despite his continued detention, Petitioner pursued relief from removal via a
2 42B application for cancellation of removal. On August 11, 2025, after a hearing at
3 which evidence was presented regarding his family circumstances and the hardship
4 his removal would impose on his United States-citizen children, the IJ granted
5 Petitioner's application for cancellation of removal.¹¹ The IJ found that his children
6 were qualifying relatives and that removal would result in exceptional and extremely
7 unusual hardship.

8 In October 2025, the Department of Homeland Security (DHS) filed a notice of
9 appeal to the Board of Immigration Appeals (BIA) challenging the IJ's grant of
10 cancellation of removal. That appeal remains pending. Petitioner remained detained
11 by ICE while the government's appeal is adjudicated, notwithstanding that he was
12 previously found suitable for release on bond and has now been granted relief from
13 removal by the IJ.

14 GROUND S FOR RELIEF

15 **I. Respondents violated Petitioner's Fifth Amendment right to**
16 **procedural due process by revoking his bond and re-detaining him**
17 **without a bond revocation hearing.**

18 **A. Petitioner's detention is governed by 8 U.S.C. § 1226, and**
19 **revocation of bond must comply with due process.**

20 Because the IJ granted Petitioner cancellation of removal and DHS's appeal
21 remains pending, there is no administratively final order of removal. Petitioner's
22 continued custody therefore arises under the discretionary detention authority of 8
23 U.S.C. § 1226(a), not 8 U.S.C. § 1231.

24 Under § 1226(b) and its implementing regulation, 8 C.F.R. § 236.1(c)(9), the
25 Attorney General "at any time may revoke a bond" authorized under § 1226(a)
26 "rearrest the alien under the original warrant, and detain the alien." 8 U.S.C. §

27 ¹¹ Ex. 1.

1 1226(b). But neither the statute nor the regulation authorizes ICE to revoke a
2 noncitizen’s liberty free from constitutional constraint. *See Hernandez v. Sessions*,
3 872 F.3d 976, 981 (9th Cir. 2017).

4 Notwithstanding the broad language in § 1226(b), the BIA has acknowledged
5 an implicit limitation on ICE’s revocation authority that “where a previous bond
6 determination has been made ... no change should be made ... absent a change of
7 circumstance.” *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.I.A. 1981). In practice,
8 DHS itself has represented that it “generally only re-arrests pursuant to § 1226(b)
9 after a material change in circumstances.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168,
10 1197 (N.D. Cal. 2017), *aff’d. sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th
11 Cir. 2018); *see also Panosyan v. Mayorikas*, 854 F. App’x 787, 788 (9th Cir. 2021)
12 (holding ICE cannot re-detain without change in circumstances).

13 But even where ICE claims changed circumstances, revocation of release and
14 re-incarceration implicate a core liberty interest protected by the Fifth Amendment.
15 In *Otero v. Kaiser*, the Northern District of California recognized that although DHS
16 retains statutory authority under 8 U.S.C. § 1226(b) to revoke a noncitizen’s release
17 and re-arrest him “at any time,” that authority is “always constrained by the
18 requirements of due process.” 2025 U.S. Dist. LEXIS 232899, at *10–11 (N.D. Cal.
19 Dec. 4, 2025) (citing *Hernandez v. Sessions*, 872 F.3d at 981). The court explained
20 that when a noncitizen is re-detained after having previously been released under §
21 1226(a), “federal regulations still provide that ‘aliens under § 1226(a) receive bond
22 hearings at the outset of the detention,’” and that an IJ must assess danger and flight
23 risk. *Id.* (citing *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018); 8 C.F.R. §§
24 236.1(d)(1), 1236.1(d)(1)).

25 Although the government may re-arrest a person upon a “change in
26 circumstances,” including “reinvolvement with the criminal justice system,” *id.* at *11
27 (citing *Panosyan v. Mayorikas*, 854 F. App’x at 788), the existence of an alleged change

1 in circumstances does not displace the noncitizen’s due process right to a neutral
2 custody determination before a decision is made that re-detention is appropriate, *see*
3 *Otero*, 2025 U.S. Dist. LEXIS 232899, at *11. Thus, even if DHS relies on a new
4 criminal arrest as the asserted changed circumstance here, that allegation goes to
5 what DHS may present at a custody hearing, not whether a hearing is required at
6 all.

7 **B. A noncitizen released on bond possesses a protected liberty**
8 **interest in continued freedom, and due process required a**
9 **bond-revocation hearing before Petitioner could lawfully be re-**
10 **detained.**

11 “Freedom from imprisonment—from government custody, detention, or other
12 forms of physical restraint—lies at the heart of the liberty” that the Due Process
13 Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). That protection extends
14 to noncitizens physically present in the United States, including those in civil
immigration proceedings. *See Hernandez*, 872 F.3d at 990.

15 The Supreme Court has long recognized that individuals who have been
16 released from physical custody—even subject to conditions—possess a protected
17 liberty interest in their continued freedom. In *Morrissey v. Brewer*, the Court held
18 that a parolee’s conditional liberty “includes many of the core values of unqualified
19 liberty,” and that its termination “inflicts a grievous loss” requiring due process
20 protections. 408 U.S. 471, 482 (1972). The same principle applies to probationers, pre-
21 parolees, and others living at liberty subject to supervision. *Young v. Harper*, 520 U.S.
22 143, 152 (1997) (holding that individuals placed in a pre-parole program created to
23 reduce prison overcrowding have a protected liberty interest requiring pre-
24 deprivation process); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973) (holding that
25 individuals released on felony probation have a protected liberty interest requiring
26 pre-deprivation process).

1 Federal district courts have repeatedly recognized that these principles apply
2 within the immigration context. *See, e.g., Saravia v. Sessions*, 280 F. Supp. 3d 1168,
3 1183–1201 (N.D. Cal. 2017); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968–70 (N.D.
4 Cal. 2019); *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *3 (N.D.
5 Cal. Aug. 23, 2020). Petitioner, who had been released from ICE custody on bond and
6 living in the community subject to conditions, therefore possessed a substantial
7 liberty interest in remaining free from physical incarceration.

8 Because that liberty interest is profound, due process required, at minimum,
9 notice and a meaningful opportunity to be heard by an IJ before Petitioner’s release
10 could be revoked and he could be returned to immigration custody. Courts in this
11 Circuit have held that due process requires a hearing before a noncitizen who has
12 been released from ICE custody may be re-detained, at which the government must
13 justify the change in custody. *See Ortega*, 415 F. Supp. 3d at 969–70 (granting habeas
14 relief and permanently enjoining re-arrest absent a hearing before an IJ); *Vargas*,
15 2020 WL 5074312, at *3; *Jorge M.F. v. Wilkinson*, No. 20-cv-07609-JSC, 2021 WL
16 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Enamorado v. Kaiser*, No. 25-cv-02143-WHO,
17 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025).

18 That process is not satisfied by unilateral ICE action. *See Herrera Torralba v.*
19 *Knight*, No. 2:25-cv-01366-RFB-DJA, slip op. at 17–18 (D. Nev. Sept. 5, 2025) (finding
20 due process violated where DHS unilaterally overrode an IJ’s bond decision and
21 continued detention without any procedure to challenge the deprivation of liberty).
22 Where the government seeks to revoke release and impose civil incarceration, due
23 process requires a hearing at which the government bears the burden to establish
24 that continued detention is now justified based on danger or flight risk, and the
25 noncitizen has an opportunity to contest that showing. *See Ortega*, 415 F. Supp. 3d
26 at 969–70; *Villalta Salazar v. Robbins*, 2025 U.S. Dist. LEXIS 206683, at *5–8 (C.D.
27 Cal. June 18, 2025).

1 **C. Respondents violated due process by revoking Petitioner’s**
2 **bond and re-detaining him without any bond revocation**
3 **hearing.**

4 Here, Respondents revoked Petitioner’s release and returned him to
5 immigration detention without ever providing notice of the grounds for revocation,
6 and without affording him any opportunity to appear before an IJ to contest whether
7 his bond should be revoked or detention was warranted.

8 Even assuming ICE believed that Petitioner’s arrest constituted changed
9 circumstances, that belief did not permit ICE to dispense with due process
10 altogether.¹² The Constitution requires that Respondents provide a bond revocation
11 hearing to assess whether detention was justified in light of the asserted change in
12 circumstances. Their failure to do so renders Petitioner’s re-detention
13 constitutionally unlawful.¹³

14 **D. Application of the *Mathews v. Eldridge* factors confirms that a**
15 **bond revocation hearing was constitutionally required.**

16 To determine whether a civil detention violates a detainee’s procedural due
17 process rights, courts in this district have frequently applied the three-part
18 balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See De Leon v.*

19 ¹² The court in *Ortega v. Bonnar* made this distinction explicit, explaining
20 that “the question before me is not whether there has been a material change of
21 circumstances such that [re-arrest] would be warranted; the question is who should
22 make that decision as part of what process due to him.” 415 F. Supp. 3d at 968.

23 ¹³ Respondents may contend that this Court lacks jurisdiction under 8 U.S.C.
24 § 1226(e) to review ICE’s decision to revoke Petitioner’s bond and re-detain him. But
25 as the court explained in *Ortega v. Bonnar*, although § 1226(e) “restricts jurisdiction
26 in the federal courts in some respects, it does not limit habeas jurisdiction over
27 constitutional claims or questions of law.” 415 F. Supp. 3d at 969 (quoting *Singh v.*
Holder, 638 F.3d 1196, 1202 (9th Cir. 2011)). Like the petitioner in *Ortega*,
Petitioner here does not challenge his initial custody or bond determination; he
raises an as-applied constitutional due process challenge to Respondents’ ability to
re-detain him without a hearing. *See id.* Thus, this Court therefore retains habeas
jurisdiction to consider whether Petitioner’s re-detention without a bond revocation
hearing violates the Fifth Amendment.

1 *Mayorkas*, No. 2:23-cv-02073-GMN-VCF, 2024 WL 343437 (D. Nev. Jan. 29, 2024);
2 *Ortiz-Castillo v. United States*, No. 2:23-cv-01485-RFB-MDC, 2024 WL 756075 (D.
3 Nev. Feb. 23, 2024); *Arechiga v. Archambeault*, No. 2:23-cv-00600-CDS-VCF, 2023
4 WL 5207589 (D. Nev. Aug. 11, 2023). In doing so, a court must weigh (1) the private
5 interest that will be affected by the official action; (2) the risk of an erroneous
6 deprivation of such interest through the procedures used and the probable value of
7 additional procedural safeguards; and (3) the United States' interest, including the
8 function involved and fiscal and administrative burdens the additional procedural
9 safeguards would entail. *Mathews*, 424 U.S. at 335. This Court should apply the
10 *Mathews* test and find that Petitioner should be released and provided with notice
11 and a hearing prior to any re-incarceration or revocation of his bond.

12 **1. The private interest is profound.**

13 That interest is especially weighty where, as here, Petitioner had already been
14 released from custody and was living in the community subject to conditions. His re-
15 incarceration abruptly severed him from his children, his home, his employment, and
16 his established family life, and imposed precisely the kind of "grievous loss" the
17 Supreme Court has recognized accompanies the termination of conditional liberty.
18 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

19 Petitioner is the father of three United States-citizen children, all minors,
20 whom he supports emotionally and financially. In granting cancellation of removal,
21 the IJ expressly found that Petitioner's removal and consequent absence from his
22 children's lives would result in exceptional and extremely unusual hardship to
23 them.¹⁴ Petitioner had previously been found suitable for release on bond, returned
24 to the community, and was pursuing relief from removal when he was re-detained.
25 The private interest implicated by his loss of physical liberty and separation from his
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27 ¹⁴ Ex. 1.

1 family is substantial. This factor weighs heavily in favor of robust procedural
2 protections.

3 **2. The risk of erroneous deprivation without a hearing is**
4 **serious.**

5 The procedures used here created a serious risk of erroneous deprivation of
6 liberty. ICE re-detained Petitioner following a local arrest without providing any
7 bond-revocation hearing, without taking evidence, and without a neutral
8 determination of whether he in fact posed a danger or flight risk, or whether
9 conditions short of detention could reasonably mitigate any concern.

10 That risk is not theoretical. Petitioner was not convicted of the offense that
11 precipitated his re-detention. Yet no adjudicator evaluated the nature of the
12 allegation, its reliability, its relevance to flight risk or dangerousness, or whether the
13 existing bond conditions could be modified to address any legitimate government
14 interest. Instead, the consequence of full re-incarceration flowed automatically,
15 without individualized assessment. Courts have repeatedly recognized that allowing
16 ICE to revoke release and re-detain a person unilaterally, without a hearing, creates
17 a substantial risk of erroneous deprivation of liberty. *See, e.g., Saravia v. Sessions*,
18 280 F. Supp. 3d at 1190–1200; *Villalta Salazar v. Robbins*, 2025 U.S. Dist. LEXIS
19 206683, at *5–7.

20 **3. The government's interest does not justify dispensing**
21 **with a hearing.**

22 The government has a legitimate interest in ensuring appearance at
23 immigration proceedings and protecting the community. But it has no legitimate
24 interest in depriving a person of liberty without constitutionally adequate procedures.
25 *Cf. Singh v. Garland*, No. 1:23-cv-01043-EPG-HC, 2023 WL 5836048, at *6 (E.D. Cal.
26 Sept. 8, 2023) (clarifying that the relevant government interest is not detention itself,
27 but detention without a bond hearing); *Henriquez v. Garland*, No. 5:22-cv-00869-EJD,
2022 WL 2132919, at *5 (N.D. Cal. June 14, 2022) (same). Providing a prompt bond-

1 revocation hearing imposes, at most, a minimal administrative burden. Immigration
2 courts routinely conduct bond hearings, are already tasked with assessing danger
3 and flight risk, and are institutionally equipped to adjudicate precisely these
4 questions. *See Ortega v. Bonnar*, 415 F. Supp. 3d at 970; *cf. Eliazar G.C. v. Wofford*,
5 No. 1:24-cv-01032-EPG-HC, 2025 WL 711190, at *8 (E.D. Cal. Mar. 5, 2025) (noting
6 the minimal burden of providing bond hearings); *Singh v. Barr*, 400 F. Supp. 3d 1005,
7 1021–22 (S.D. Cal. 2019) (same).

8 Balancing these factors, due process requires Respondents to provide
9 Petitioner with a bond-revocation hearing before revoking his release and returning
10 him to immigration detention. Their failure to do so violated the Fifth Amendment.

11 PRAYER FOR RELIEF

12 Because Petitioner’s re-detention occurred without the constitutionally
13 required process, his continued custody is unlawful. This Court should grant the
14 writ of habeas corpus, order Petitioner’s release, and enjoin Respondents from re-
15 detaining him unless and until they provide a constitutionally adequate bond
16 revocation hearing before an IJ at which the government bears the burden to justify
17 renewed immigration detention.

18 Accordingly, Petitioner respectfully requests that this Court:

- 19 1. Grant the petition for a writ of habeas corpus;
- 20 2. Order Petitioner’s immediate release;
- 21 3. Enjoin Respondents from re-detaining Petitioner unless and until they
22 provide a constitutionally adequate bond revocation hearing before an Immigration
23 Judge, with notice and an opportunity to be heard, at which the government bears
24 the burden to justify renewed detention;
- 25 4. Grant such other and further relief as, in the interests of justice, may
26 be appropriate.

1 Dated January 28, 2026.

2 Respectfully submitted,


3
4 Rene L. Valladares
5 Federal Public Defender

6 */s/ Jennifer Joseph*
7 Jennifer Joseph
8 Assistant Federal Public Defender

9 */s/ Laura Barrera*
10 Laura Barrera
11 Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on January 28, 2026. I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third-party commercial carrier for delivery within three calendar days, to the following person:

Juan Carlos Pelagio Mendoza,  Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048	John Mattos, Warden Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048
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/s/ Kaitlyn O'Hearn
An Employee of the