

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Luis Alberto ZAMORA MEJIA,)
) Case No. 3:26-cv-109
Petitioner,)
)
)
)
v.)
)
(1) THOMAS BERGAMI, Warden of)
Prairieland Detention Center;)
(2) JOSHUA JOHNSON, Field Office)
Director of the Dallas Field Office, U.S.)
Immigration and Customs Enforcement,)
Enforcement and Removal Operations;)
(3) TODD LYONS, Senior Official Performing,)
the Duties of the Director, U.S. Immigration)
and Customs Enforcement;)
(4) KRISTI NOEM, Secretary of the U.S.)
Department of Homeland Security;)
(5) PAMELA BONDI, U.S. Attorney General,)
in their official capacities,)
)
Respondents.)
_____)

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. 2241

INTRODUCTION

1. Petitioner, Luis Alberto Zamora Mejia, is detained by Respondents at the Prairieland Detention Center under 8 U.S.C. § 1226(c). On July 7, 2025, Immigration Judge (IJ) denied Petitioner’s request for bond on the ground that he is subject to “mandatory detention” (i.e., subject to § 1226(c)) based on a conviction for a “crime involving moral turpitude within five years of admission.” *See* Exhibit A, IJ Bond Determination. That determination is legally erroneous: § 1226(c) does not apply to noncitizens deportable under INA § 1227(a)(2)(A)(i)(I) unless a term of imprisonment of one year was imposed, and Petitioner received no term of imprisonment.

2. Now, Petitioner’s 16-month detention has become unconstitutionally prolonged. Petitioner is a person with schizophrenia and intellectual disability. His sole conviction—a 2016 felony robbery that occurred before his mental illness was diagnosed—is being reconsidered by the same district attorney’s office that prosecuted him. *See* Exhibit B, Affidavit of Criminal Defense Attorney Bruce Anton. They have agreed that if he successfully completes a mental health rehabilitation program, they will allow the conviction to be vacated.

3. Meanwhile, Petitioner’s asylum application was granted, and the DHS appealed that grant. Recently, the Board of Immigration Appeals (BIA) remanded the case to the IJ for further proceedings to clarify the decision.

Petitioner's case has been ongoing in the immigration court since his detention on August 29, 2024, and it may continue for many months or years more.

4. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment. Accordingly, Petitioner seeks a writ of habeas corpus ordering his release or, at minimum, a bond hearing to determine whether continued detention is justified. At this bond hearing, the government should bear the burden of proof by clear and convincing evidence, and the IJ should be required to consider alternatives to detention and Petitioner's ability to pay.

JURISDICTION

5. Petitioner is in the physical custody of Respondents at Prairieland Detention Center in Alvarado, Texas and is under the direct control of Respondents and their agents.

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

7. 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 United States Constitution (the Suspension Clause).

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

9. 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).

VENUE

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Northern District of Texas, the judicial district in which Petitioner currently is in custody.

11. Venue is also proper in this judicial district pursuant to 28 U.S.C. § 1391(e) because Respondents are U.S. agencies and officers of the United States acting in their official capacities and because a substantial part of the events or omissions giving rise to the claims occurred in the Northern District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

14. Petitioner is a citizen of Mexico who most recently arrived in the United States on May 11, 2014 as a B2 nonimmigrant. He has been in the custody of Respondents since August 29, 2024. He is currently detained at Prairieland Detention Center in the custody, and under the direct control, of Respondents and their agents.

15. Respondent Thomas BERGAMI is sued in his official capacity as the Warden of Prairieland Detention Center and has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. The warden of Prairieland Detention Center is a legal custodian of Petitioner.

16. Respondent Joshua JOHNSON is sued in his official capacity as the Field Office Director of the Dallas Field Office of U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO).

Respondent Johnson is a legal custodian of Petitioner and has authority to release him.

17. Respondent Todd LYONS is sued in his official capacity as the Senior Official Performing the Duties of the Director of the U.S. Immigration and Customs Enforcement, which oversees the Dallas Field Office of U.S. Immigration and Customs Enforcement, the field office responsible for Petitioner's detention. Respondent Lyons is a legal custodian of Petitioner and has authority to release him.

18. Respondent Kristi NOEM is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees the U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner and has the authority to release him.

19. Respondent Pamela BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

FACTUAL ALLEGATIONS

20. On May 11, 2014, Petitioner entered the United States as a B2 nonimmigrant. He has remained in the United States since that time.

21. Petitioner was convicted of robbery on October 27, 2016. Since that time, the same prosecuting office has acknowledged the conviction's connection to untreated mental illness and has approved a mental health diversion agreement that would permit vacatur upon successful completion. See Exhibit B.

22. Petitioner was taken into Respondents' custody on August 29, 2024. After his detention, he was placed in removal proceedings before the Executive Office for Immigration Review.

23. In removal proceedings, Petitioner applied for asylum, withholding of removal, and protection under the Convention Against Torture. Petitioner's asylum application was granted on April 8, 2025, but DHS appealed to the BIA on May 7, 2025.

24. On June 25, 2025, Petitioner applied for bond with the IJ. On July 7, 2025, the IJ denied bond finding Petitioner subject to mandatory detention due to a conviction of a crime involving moral turpitude within five years of entry.

25. On September 29, 2025, the BIA remanded the asylum case for further consideration. On remand, the IJ requested further briefing regarding

proposed findings of fact and conclusions of law for the asylum case. The briefing has been completed, and the next hearing for the asylum case is scheduled for January 8, 2026 at 9:00 AM.

26. Petitioner is now awaiting a decision on the asylum case from the IJ. If that decision is favorable to Petitioner, DHS will likely appeal to the BIA, as they have done previously. If the decision is unfavorable to Petitioner, Petitioner will appeal to the BIA. BIA appeals typically take many months to complete, as this case has already demonstrated. After the BIA case is complete, Petitioner or DHS are entitled to file a petition for review with the Fifth Circuit Court of Appeals, which is likely to last many months. There is a strong possibility that in the midst of these appeals, there will be additional remands, drawing the case out even more.

27. Notwithstanding his serious mental illness, DHS continues to detain the Petitioner under § 1226(c). He receives inadequate mental health care, and his prolonged detention exacerbates his condition.

28. To date, Petitioner remains in Respondents' custody.

LEGAL BACKGROUND

29. Noncitizens are entitled to Fifth Amendment due process rights in removal proceedings. *See Reno v. Flores*, 507 U.S. 292, 306 (1993); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "A statute permitting indefinite detention of

an alien would raise a serious constitutional problem.” *Zadvydas*, 533 U.S. at 690.

30. According to the IJ, Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1226(c). Section 1226(c) directs that the government “shall detain” noncitizens who have specified criminal convictions or alleged involvement with terrorism. It makes no explicit provision for an initial or other bond hearing during the period of detention and places no limit on the duration of detention under its authority. It permits release only when it is necessary for witness protection. *Id.* at § 1226(c)(1)-(2).

31. Under § 1226(c), different mandatory detention standards apply to noncitizens depending upon whether they were or were not admitted to the United States. A person who was admitted in any status is subject to mandatory detention if they are deportable under the § 1227 grounds listed in § 1226(c). Here, Petitioner was admitted into B2 status. The IJ found Petitioner subject to § 1226(c) for conviction of a crime involving moral turpitude within five years. Crimes involving moral turpitude within five years are covered by § 1227(a)(2)(A)(i). Notably, a person who is deportable under § 1227(a)(2)(A)(i) is only subject to § 1226(c) detention if the person received a one-year term of imprisonment. *See* 8 U.S.C. § 1226(c)(1)(C). However, Petitioner did not receive any term of imprisonment for his conviction, making

§ 1226(c) inapplicable. Nonetheless, Petitioner remains detained under § 1226(c) pursuant to the IJ's July 7, 2025 order.

32. The Supreme Court has found § 1226(c)'s indefinite detention without an initial bond hearing facially valid where the detention is for the period of removal proceedings. *Demore v. Kim*, 538 U.S. 510, 531 (2003); see also *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 208 (3rd Cir. 2020) (recognizing *Demore* as only addressing the facial constitutionality of § 1226(c)). The Supreme Court has read § 1226(c) to not require periodic bond hearings. *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018).

33. But "*Demore* and *Jennings* leave open the question whether prolonged detention under section 1226(c) without a bond hearing will at some point violate an individual detainee's due process rights." *Black v. Decker*, 103 F.4th 133, 142 (2nd Cir. 2024); see also *Jennings*, 138 S. Ct. at 851 (remanding for consideration of the constitutional arguments); *Farah v. U.S. Attorney Gen.*, 12 F.4th 1312, 1332 (11th Cir. 2021) *overruled in part on other grounds by Santos-Zacaria v. Garland*, 598 U.S. 411, 419-23 (2023) ("If we were deciding *Farah's* habeas appeal standing alone, we would vacate the denial of his petition and remand with instructions to consider his as-applied constitutional challenge to his detention under section 1226(c)."); *German Santos*, 965 F.3d at 209-10 (*Jennings* does not foreclose as-applied challenges to § 1226(c)).

34. In rejecting the facial constitutional challenge, the *Demore* Court emphasized the limited period of detention, arguably implying that lengthy detention may violate due process as applied to the individual. *See generally Demore*, 538 U.S. at 529-31; *see Black*, 103 F.4th at 144. At the time *Demore* was decided, the data showed that 85% of § 1226(c) cases were decided in a month and a half, unless the noncitizen chose to appeal, in which case the detention lasted approximately four months. *Demore*, 538 U.S. at 529. Throughout *Demore*, the Supreme Court emphasized the brevity of detention under § 1226(c). *See id.* at 522-23 (“Rather, respondent argued that the Government may not, consistent with the Due Process Clause of the Fifth Amendment, detain him for the *brief* period necessary for his removal proceedings.” (emphasis added)); *id.* at 526 (“Despite this Court’s longstanding view that the Government may constitutionally detain deportable aliens during the *limited* period necessary for their removal proceedings, respondent argues that the narrow detention policy reflected in 8 U.S.C. § 1226(c) violates due process.” (emphasis added)); *id.* at 528 (“*Zadvydas* is materially different from the present case in a second respect as well. While the period of detention at issue in *Zadvydas* was ‘indefinite’ and ‘potentially permanent,’ the detention here is of a *much shorter duration*.” (emphasis added) (citation omitted)); *id.* at 531 (“The INS detention of respondent, a criminal alien who has conceded that he is deportable, for the *limited* period of his removal proceedings, is governed

by these cases.” (emphasis added)). Justice Kennedy—who provided the fifth vote for the majority—wrote a concurring opinion that reasoned detention may eventually become sufficiently lengthy that a hearing to justify continued detention is constitutionally required. *Id.* at 532-33 (Kennedy, J., concurring).

35. “The Constitution does not permit the Executive to detain a noncitizen for an unreasonably prolonged period under section 1226(c) without a bond hearing; at some point, additional procedural protections—like a bond hearing—become necessary.” *Black*, 103 F.4th at 145; *see also Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring); *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018) (expressing “grave doubt” that “any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government’s arbitrary deprivation of liberty would have thought so.”).

36. To guard against arbitrary detention and to guarantee the right to liberty, due process requires “adequate procedural protections” that ensure the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

37. In the immigration context, the Supreme Court has recognized two primary purposes for civil detention: to mitigate the risks of danger to the

community and to prevent flight. *Id.*; see also *Demore*, 538 U.S. at 522, 528. The government may not detain a noncitizen based on other justifications.

38. As a result, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an “individualized determination as to [a noncitizen’s] risk of flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires additional safeguards); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”).

39. Detention without a bond hearing is unconstitutional when it becomes prolonged. See, e.g., *Rodriguez*, 909 F.3d at 256; see also *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the constitutionality of detention for more than six months.”). As the Ninth Circuit has explained in the pretrial detention context—which, like here, involves civil detention—“[i]t is undisputed that at some point, [civil] detention can ‘become excessively

prolonged, and therefore punitive,’ resulting in a due process violation.” *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021) (quoting *United States v. Salerno*, 481 U.S. 739, 747 n.4 (1987)). That is especially true where the initial detention decision lacks significant—or any—safeguards, as is the case here. *See McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (explaining that as the length of civil detention increases, more substantial safeguards are required).

40. The Third Circuit, this Court, and the Southern District of Texas have applied a multi-factor reasonableness test to determine when and what protections are due a detainee. *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203 (3rd Cir. 2020); *M.D.F. v. Johnson*, No. 3:20-CV-0829 (N.D. Tex. Dec 3, 2020); *Alexis v. Sessions*, No. 18-1923 (S.D. Tex. Nov 13, 2018). The factors this Court has considered are “(1) the duration of detention, (2) the likelihood of continued detention, (3) reasons for delay, and (4) the conditions of confinement.” *M.D.F.*, No. 3:20-CV-0829 at 2 (citing *German Santos*, 965 F.3d at 211-213). The Second Circuit has applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976) framework for determining when and what additional procedural protections are due. *Black*, 103 F.4th at 138. Petitioner merits a bond hearing under either test.

41. The application of the factor-based test demonstrates Petitioner is entitled to a bond hearing. He has been detained for 16 months. Numerous

courts have found approximately 16 months of § 1226(c) detention to be unconstitutional as applied to the detainee. *See, e.g., Alexis v. Sessions*, No. 18-1923 (S.D. Tex. Nov 13, 2018) (ordering a bond hearing after 17 month detention under § 1226(c)); *Rivas v. Oddo*, No. 3:22-cv-223 (W.D. Pa. June 27, 2023) (same, for 15 month detention); *Viruel Arias v. Choate*, No. 1:22-cv-2238 (D. Col. Sep. 26, 2022) (same, for 14 month detention); *Rogers v. Ripa*, No. 1:22-cv-24433 (S.D. Fla. February 25, 2022) (same, for 15 month detention); *Mansaray v. Perry*, No. 21-cv-1044 (D. Md. June 4, 2021) (same, for 13 month detention); *Buleishvili v. Hoover*, No. 1:20-1694 (M.D. Pa. Feb. 22, 2021) (same, for 12 month detention); *Martinez v. Hott*, 527 F. Supp. 3d 824 (E.D. Va. 2021) (same, for 16 month detention); *Hylton v. Decker*, 502 F. Supp. 3d 848 (S.D.N.Y. 2020) (same, for 14 month detention); *Deng v. Crawford*, No. 2:20-cv-199 (E.D. Va. Oct. 30, 2020) (same, for over a year of detention); *J.N.C.G. v. Warden, Stewart Detention Center*, No. 4:20-cv-62 (M.D. Ga. Aug. 26, 2020) (R&R adopted Aug. 28, 2020) (same, for 16 month detention); *Warsame v. Meade*, No. 20-cv-22401 (S.D. Fla. Aug. 18, 2020) (same, for 11 month detention); *Davydov v. Doll*, No. 1:19-cv-2110 (M.D. Pa. Feb. 28, 2020) (same, for 14 month detention)); *Rosado Valerio v. Barr*, No. 19-cv-519, (W.D.N.Y. July 10, 2019) (same, for 16 month detention); *Bah v. Doll*, No. 3:18-CV-1409 (M.D. Pa. Oct 16, 2018) (R&R adopted Nov. 7, 2018) (same, for 14 month detention); *Cabral v. Decker*, 331 F. Supp. 3d 255 (S.D.N.Y. 2018) (same, for 9 month detention);

Hernandez v. Decker, No. 18-cv-5026 (S.D.N.Y. July 25, 2018) (same, for 9 month detention); *Portillo v. Hott*, 322 F.Supp.3d 698 (E.D. Va. 2018) (same, for 14 month detention); *Sajous v. Decker*, No. 18-cv-2447 (S.D.N.Y. May 23, 2018) (same, for 8 month detention).

42. His removal proceedings have many months, if not years, to go before they are complete. He is awaiting a decision from the IJ. If that decision is favorable to Petitioner, DHS will likely appeal to the BIA, as they have done previously. If the decision is unfavorable to Petitioner, Petitioner will appeal to the BIA. BIA appeals typically take many months to complete. After the BIA case is complete, Petitioner or DHS are entitled to file a petition for review with the Fifth Circuit Court of Appeals, which is likely to last months to a year. There is a strong possibility that in the midst of these appeals, there will be additional remands, drawing the case out even more. The Southern District of Texas has found that where an individual's case was pending at the Fifth Circuit and they were likely to appeal to the Supreme Court if denied, that the likelihood of continued detention weighed in their favor. *Alexis*, No. 18-1923 at 16; *see also German Santos*, 965 F.3d at 212 (where proceedings before the immigration judge were complete and the detainee was likely to appeal to the BIA, the likelihood of continued detention factor weighed in the detainee's favor).

43. The delay factors are neutral in this case.

44. Petitioner is a person with schizophrenia and intellectual disability. His mental health has deteriorated because the detention center where he is housed is not suitable to provide adequate care for his mental illness.

45. Thus, under the factor-based test, due process requires a bond hearing.

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

47. Here, Petitioner's interest is at its zenith: he has a powerful interest in his physical liberty, as the Supreme Court has made clear. See *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *United States v. Salerno*, 481 U.S. 739, 755 (1987).

48. Second, additional protections are warranted here. Section 1226(c) affords Petitioner no protection and requires his detention. See, e.g., *Black*, 103 F.4th at 152 ("the almost nonexistent procedural protections in place for section 1226(c) detainees markedly increased the risk of an erroneous deprivation of Petitioners' private liberty interests."). This risk of error is particularly evident in Petitioners' case, as he is not properly classified as being subject to § 1226(c) detention.

49. Finally, any burden on the government is minimal. Bond proceedings are short, informal hearings where an immigration judge typically receives evidence at a hearing and issues an oral ruling. Such hearings do not entail any significant expenditure of government resources. *See* Imm. Ct. Practice Manual ch. 9.3(e).

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

51. Due process also requires certain minimal procedures at Petitioner's bond hearing. Petitioner should be provided a bond hearing in which the government bears the burden of justifying his continued detention and the IJ considers his ability to pay and alternatives to detention when setting any bond amount. *Black*, 103 F.4th at 155-59; *see also Mansaray v. Perry*, No. 21-cv-1044 (D. Md. June 6, 2021) (ordering a bond hearing in which the government bears the burden of proof by clear and convincing evidence and the IJ considers ability to pay and alternatives to detention); *Rosado Valerio v. Barr*, No. 19-cv-519, (W.D.N.Y. July 10, 2019) (ordering a bond hearing in which the government bears the burden of proof by clear and convincing evidence and the IJ considers alternatives to detention); *Hernandez v. Decker*, No. 18-cv-5026 (S.D.N.Y. July 25, 2018) (ordering a bond hearing in which the government bears the burden of proof by clear and convincing evidence and the IJ considers ability to pay); *Viruel Arias v. Choate*, No. 1:22-cv-2238 (D. Col.

Sep. 26, 2022) (ordering a bond hearing in which the government bears the burden of proof by clear and convincing evidence); *Hylton v. Decker*, 502 F. Supp. 3d 848 (S.D.N.Y. 2020) (same); *Deng v. Crawford*, No. 2:20-cv-199 (E.D. Va. Oct. 30, 2020) (same); *Portillo v. Hott*, 322 F.Supp.3d 698 (E.D. Va. 2018) (same); *Sajous v. Decker*, No. 18-cv-2447 (S.D.N.Y. May 23, 2018) (same).

52. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the *Mathews* test.

53. First, prolonged incarceration deprives noncitizens of a profound liberty interest—one that always requires some form of procedural protections. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (“It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” (citation omitted)).

54. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack 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 noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

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

56. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen’s appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE’s alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has previously achieved compliance rates over 90 percent. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

57. Due process likewise requires consideration of a noncitizen’s ability to pay a bond. “Detention of an indigent ‘for inability to post money bail’

is impermissible if the individual's 'appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). As a result, in determining the appropriate conditions of release for immigration detainees, due process requires "consideration of financial circumstances and alternative conditions of release" to prevent detention based on poverty. *Id.*

CAUSE OF ACTION

28 U.S.C. § 2241

Violation of Fifth Amendment Right to Due Process

58. Petitioner incorporates by reference the allegations set forth in paragraphs 1–57.

59. 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.

60. Petitioner's detention—which has now lasted 16 months—constitutes prolonged detention and is not reasonably related to a legitimate government purpose.

61. To justify Petitioner'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 the IJ considers alternatives to detention and ability to pay.

62. For these reasons, Petitioner'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 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 his release would present. The Court should further order that if the government cannot meet its burden, the IJ must order Petitioner's release on appropriate conditions of supervision, taking into account his ability to pay a bond;
- C. Alternatively, issue a Writ of Habeas Corpus and hold a hearing before this Court if warranted; determine that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of available alternatives

to detention; and order Petitioner's release, with appropriate conditions of supervision if necessary, taking into account his ability to pay a bond;

- D. Issue a declaration that, as applied in this case, 8 U.S.C. § 1226(c) and Petitioner's prolonged detention under that statute violate the Due Process Clause of the Fifth Amendment;
- E. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- F. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this 15th day of January, 2026.

s/Jennifer Walker Gates
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Luis Alberto Zamora Mejia, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 15th day of January, 2026.

s/Jennifer Walker Gates
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2026, I sent a true and correct copy of the foregoing Petition for Writ of Habeas Corpus to be served pursuant to Fed. R. Civ. P. 5 and in compliance with the Local Rules of the United States District Court for the Northern District of Texas to the Respondents via certified mail:

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