

1 Magomed Esendirov, Esq. (CA SBN: 363301)
2 Musaev & Associates, PC
3 409 N Camden Dr., Suite 108
4 Beverly Hills, CA 90210
5 esendirov@musaev.com
6 tel: (424) 599-6556

7 *Attorney for Petitioner*

8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 GERMAKHANOV, BAISANGUR

12 FILE NO:



13 Petitioner,

14 v.

15 Sidney Aki Current or Acting Field Office
16 Director, ICE San Diego Field Office;

17 Todd M. Lyons, Current or Acting Director, U.S.
18 Immigration and Customs Enforcement.

19 Kristi, Noem, Current or Acting Secretary,
20 Department of Homeland Security;

21 Pamela, Bondi, Current or Acting Attorney
22 General of the United States; and

23 Warden of Imperial Regional Detention Facility

24 Respondents.

25 CASE No. '26CV1397 BJC VET

26 **PETITION FOR WRIT OF HABEAS**
27 **CORPUS**

INTRODUCTION

1
2 1. Petitioner Baisangur Germakhanov (“Petitioner”) seeks a writ of habeas corpus
3 under **28 U.S.C. § 2241** challenging his ongoing civil immigration detention at Imperial
4 Regional Detention Facility, Calexico, California.

5 2. Petitioner is a citizen of Russia, born [REDACTED]

6 3. Petitioner has pending removal proceedings under Aliens number [REDACTED]

7
8 4. Petitioner has been in continuous immigration custody since June 30, 2025, a
9 period now exceeding eight months, without ever having received an individualized bond
10 hearing before a neutral decisionmaker. He has never been granted parole, released into the
11 community, or afforded any meaningful opportunity to demonstrate that he does not pose a flight
12 risk or danger to the community.

13 5. On January 27, 2026, Immigration Judge denied Petitioner's applications for
14 asylum, withholding of removal, and protection under the Convention Against Torture ("CAT").
15 Petitioner filed a timely appeal to the Board of Immigration Appeals ("BIA") on February 17,
16 2026. The BIA acknowledged receipt on February 19, 2026. The removal order is therefore not
17 final, and an automatic stay of removal is in effect.

18
19 6. Petitioner respectfully requests that this Court order his **immediate release**,
20 and/or order constitutionally adequate process, including a **prompt custody hearing** before a
21 neutral decisionmaker where the government bears the burden to justify detention.

22
23 7. The Due Process Clause applies to “all ‘persons’ within the United States,
24 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
25 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). “Freedom from bodily restraint has
26 always been at the core of the liberty protected by the Due Process Clause from arbitrary
27 governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

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2 8. The two permissible purposes of civil immigration detention are ensuring
3 appearance at proceedings and preventing danger to the community. *Zadvydas v. Davis*, 533 U.S.
4 678, 690-92 (2001). A man who faces more-likely-than-not torture if deported has every rational
5 incentive to remain in the United States, attend every hearing, cooperate with every order, and
6 pursue every available appeal. He is, by the government's own account, the last person who
7 would flee from the only judicial system that can protect him. There is no legitimate civil
8 detention purpose being served here
9

10 9. Petitioner is detained under 8 U.S.C. § 1226(a), the discretionary pre-final-order
11 detention statute. Although the Notice to Appear characterizes Petitioner as 'an alien present in
12 the United States who has not been admitted or paroled' under INA § 212(a)(6)(A)(i), this
13 characterization does not render him subject to the mandatory detention regime of § 1225(b).
14 The Ninth Circuit has held that once removal proceedings are initiated before an immigration
15 judge — as they were here — the detainee's custody is governed by § 1226, not § 1225(b). *See*
16 *Diouf v. Napolitano*, 634 F.3d 1081, 1082 n.1 (9th Cir. 2011); *Casas-Castrillon v. Dep't of*
17 *Homeland Security*, 535 F.3d 942, 948-50 (9th Cir. 2008). Moreover, Petitioner is not subject to
18 mandatory detention under § 1226(c) because he has no criminal record and has not been
19 convicted of any enumerated offense. His detention therefore falls squarely within the
20 discretionary authority of § 1226(a), which requires an individualized bond determination — one
21 Petitioner has never received.
22

23
24 10. Petitioner has never once been brought before a bond hearing officer. Not at the
25 initial stages, not after six months, not after eight. There has been no individualized assessment
26 of whether he poses a flight risk. There has been no opportunity for him to present his record of
27 cooperation, his lack of criminal history, or the government's own concession that he faces
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1 torture if removed. The government has simply detained him, month after month, without
2 process. The Due Process Clause of the Fifth Amendment applies to “all ‘persons’ within the
3 United States, including [noncitizens], whether their presence here is lawful, unlawful,
4 temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. “Freedom from imprisonment — from
5 government custody, detention, or other forms of physical restraint — lies at the heart of the
6 liberty that [the Due Process] Clause protects.” *Id.* at 690. That protection does not depend on the
7 noncitizen’s immigration status or the strength of the government’s removal case. It depends
8 only on whether continued detention is reasonably related to a legitimate non-punitive purpose.
9 Here, it is not.

11 11. “[I]n our society liberty is the norm, and detention prior to trial or without trial is
12 the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). The
13 government’s indefinite, process-free imprisonment of a man its own officers have determined
14 faces more-likely-than-not torture is not a carefully limited exception. It is an unexamined
15 exercise of raw detention power that the Constitution prohibits

17 12. Petitioner respectfully seeks a writ of habeas corpus ordering the government to
18 immediately release him from his ongoing, unlawful detention, and prohibiting his re-arrest
19 without a hearing to contest that re-arrest before a neutral decisionmaker. In addition, to preserve
20 this Court’s jurisdiction, Petitioner also requests that this Court order the government not to
21 transfer him outside of the District or deport him for the duration of this proceeding.


23
24 **JURISDICTION AND VENUE**

25 13. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
26 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
27 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
28

1 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
2 (Administrative Procedure Act).

3 14. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and
4 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.
5

6 **PARTIES**

7
8 15. Petitioner Baisangur Germakhanov is detained at Imperial Regional Detention
9 Facility, 1572 Gateway Road, Calexico, CA 92231. Petitioner is in removal proceedings before
10 the Imperial Immigration Court (A-Number: ) and his timely-filed appeal is
11 currently pending before the Board of Immigration Appeals.

12 16. Respondent Sidney Aki is the Field Office Director of the San Diego Immigration
13 and Customs Enforcement Office. He is responsible for the administration of immigration laws
14 and the execution of immigration enforcement and detention policy within the detention of
15 Petitioner. He maintains an office and regularly conducts business in this district. He is sued in
16 his official capacity.
17

18 17. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official
19 Performing the Duties of the Director of ICE, he is responsible for the administration and
20 enforcement of the immigration laws of the United States; routinely transacts business in this
21 District; and is legally responsible for pursuing any effort to detain and remove the Petitioner.
22 Respondent Lyons is sued in his official capacity.
23

24 18. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
25 authority over DHS. In that capacity and through her agents, Respondent Noem has broad
26 authority over and responsibility for the operation and enforcement of the immigration laws;
27 routinely transacts business in this District; and is legally responsible for pursuing any effort to
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1 detain and remove the Petitioner. Respondent Noem is sued in her official capacity.

2 19. Respondent Pamela Bondi is the Attorney General of the United States and the
3 most senior official at the Department of Justice. In that capacity and through her agents, she is
4 responsible for overseeing the implementation and enforcement of the federal immigration laws.
5 The Attorney General delegates this responsibility to the Executive Office for Immigration
6 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her
7 official capacity.

8
9 20. Respondent Warden of Imperial Regional Detention Facility is the official
10 responsible for Petitioner's present physical custody and confinement at Imperial Regional
11 Detention Facility. The Respondent is sued in their official capacity.

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13
14 **EXHAUSTION**

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16 21. There is no requirement to exhaust because no other forum exists in which
17 Petitioners can raise the claims herein. There is no statutory exhaustion requirement prior to
18 challenging the constitutionality of an arrest or detention or challenging a policy under the
19 Administrative Procedure Act. Prudential exhaustion is not required here because it would be
20 futile, and Petitioners will "suffer irreparable harm if unable to secure immediate judicial
21 consideration of [their] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further
22 exhaustion requirements would be unreasonable.

23
24 22. Moreover, the Ninth Circuit has held that where an alien has been detained for six
25 months or more without a bond hearing, habeas review is available and appropriate. *Diouf v.*
26 *Napolitano*, 634 F.3d 1081, 1091-92 (9th Cir. 2011). Petitioner has now been detained for over
27 eight months without any individualized bond hearing.

LEGAL BACKGROUND

A. The Statutory Framework: 8 U.S.C. § 1226 and the Right to a Bond Hearing

23. The authority to detain noncitizens during removal proceedings derives from 8 U.S.C. § 1226. Section 1226 contains two distinct detention regimes. Section 1226(a) is the default provision and applies to noncitizens who have not been convicted of enumerated criminal offenses. It provides that the Attorney General “may” detain, release on bond, or release on conditional parole a noncitizen pending the determination of whether he is removable. The word “may” is deliberate: § 1226(a) is a discretionary authority, not a mandate. It contemplates case-by-case determinations about whether detention is warranted.

24. Section 1226(c), by contrast, mandates detention — without the possibility of bond — for noncitizens who have been convicted of certain categories of crimes, including aggravated felonies, drug trafficking offenses, and crimes involving moral turpitude above a specified threshold. See 8 U.S.C. §§ 1226(c)(1)(A)-(D). The Supreme Court upheld the constitutionality of § 1226(c) mandatory detention as applied to the “short” period of removal proceedings in *Demore v. Kim*, 538 U.S. 510, 531 (2003) — but expressly noted that “unreasonably long” detention, or detention without legitimate civil purpose, could give rise to constitutional claims even under that provision. *Id.* at 532-33 (Kennedy, J., concurring). Petitioner has no criminal record of any kind. He is not subject to § 1226(c). His detention is governed entirely by the discretionary authority of § 1226(a).

25. Under § 1226(a), a detained noncitizen is entitled to request a bond hearing before an immigration judge. 8 C.F.R. § 236.1(d)(1). At such a hearing, the immigration judge considers whether the noncitizen poses a danger to the community or a flight risk. *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). In evaluating flight risk, the immigration judge considers factors including the alien’s family ties in the United States, length of residence,

1 history of immigration violations, record of failures to appear, and the existence of pending relief
2 applications. *Id.* at 40. Petitioner has never been afforded this hearing. No immigration judge has
3 ever been asked to weigh these factors in his case.

4 26. The constitutional infirmity deepens as detention lengthens. The Ninth Circuit has
5 held that where detention under § 1226(a) becomes prolonged — defined as extending beyond
6 approximately six months — the Constitution requires that the government provide an
7 individualized bond hearing and affirmatively justify continued custody. *Diouf v. Napolitano*,
8 634 F.3d 1081, 1091-92 (9th Cir. 2011). At that point, the burden shifts: the government, not the
9 detainee, must prove by clear and convincing evidence that no conditions of release can
10 adequately address the risk of flight or danger to the community. *Singh v. Holder*, 638 F.3d
11 1196, 1203-04 (9th Cir. 2011); *Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024).
12 Petitioner has been detained for over eight months — well beyond the threshold — and has
13 received no such hearing.
14

15 27. The shifted burden at a prolonged-detention bond hearing is not a mere procedural
16 technicality. It reflects a substantive constitutional judgment: that as civil detention grows longer,
17 it increasingly resembles punishment, and the government’s justification for it must be
18 correspondingly stronger. *Diouf*, 634 F.3d at 1091 (“[T]he longer a person is detained, the more
19 his detention begins to resemble punishment.”). The burden-shifting rule ensures that
20 immigration detention does not become a de facto criminal sentence imposed without the
21 procedural protections that criminal punishment requires.
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24 ***B. The Fifth Amendment Prohibits Prolonged Civil Detention Without Individualized***
25 ***Justification.***

26 28. “Freedom from imprisonment — from government custody, detention, or other
27 forms of physical restraint — lies at the heart of the liberty that [the Due Process] Clause
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1 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Due Process Clause “applies to all
2 persons within the United States, including aliens, whether their presence here is lawful,
3 unlawful, temporary, or permanent.” *Id.* at 693. It is therefore settled law that noncitizens in
4 immigration custody retain core constitutional rights, including the right not to be imprisoned
5 indefinitely without adequate procedural justification.

6 29. Civil immigration detention is constitutionally permissible only when it is “non-
7 punitive in purpose and effect” and bears a “reasonable relation” to the government’s legitimate
8 interests. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The
9 Supreme Court has identified two — and only two — legitimate purposes for civil immigration
10 detention: ensuring appearance at immigration proceedings and preventing danger to the
11 community. *Zadvydas*, 533 U.S. at 690-92. When neither purpose is served by continued
12 detention, that detention becomes “punitive” in effect and violates substantive due process
13 regardless of the government’s characterization. *See Hernandez v. Sessions*, 872 F.3d 976, 994
14 (9th Cir. 2017) (“[T]he government has no legitimate interest in detaining individuals who have
15 been determined not to be a danger to the community and whose appearance at future
16 immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions.”).

17 30. “[I]n our society liberty is the norm, and detention prior to trial or without trial is
18 the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). Where the
19 government seeks to deprive a person of liberty for civil rather than criminal reasons, the burden
20 on the government is particularly high, because civil commitment “is a significant deprivation of
21 liberty” that “constitutes a significant deprivation of liberty that requires due process protection.”
22 *Addington v. Texas*, 441 U.S. 418, 425 (1979). As an immigration detainee in civil custody,
23 Petitioner is “entitled to protections at least as great as those afforded to an individual who has
24 been accused but not convicted of a crime.” *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).
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1 31. The procedural component of due process also independently requires a hearing.
2 “The Constitution requires some kind of a hearing *before* the State deprives a person of liberty or
3 property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Courts apply the
4 *Mathews v. Eldridge* balancing test to determine the specific procedural protections owed in a
5 given civil detention context: (1) the private interest at stake; (2) the risk of erroneous
6 deprivation and the value of additional procedural safeguards; and (3) the government’s interest,
7 including the burden of additional procedures. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
8 All three factors favor Petitioner and compel the provision of an individualized bond hearing.
9

10 ***C. The Government’s Own CAT Finding Is Dispositive Evidence That Petitioner’s***
11 ***Detention Serves No Legitimate Civil Purpose***

12 32. This case presents a constitutional conflict that distinguishes it from typical
13 prolonged-detention habeas proceedings: prior to the merits hearing, the government's own
14 asylum officer made a formal, credibility-based determination that Petitioner faces a greater-
15 than-fifty-percent probability of torture if returned to Russia. That finding — contained in the
16 July 18, 2025 CAT Assessment Notice and the July 22, 2025 CAT Assessment Worksheet —
17 was made by USCIS Asylum Officer John Lanigan, who interviewed Petitioner telephonically,
18 found his testimony credible and consistent, and determined that all five elements of the
19 applicable regulatory torture standard were satisfied. Supervisory Asylum Officer Gretta Owens
20 reviewed and approved the determination four days later.
21

22 33. Although the Immigration Judge subsequently denied CAT protection on the
23 merits — a decision Petitioner now appeals to the BIA — the government's pre-hearing
24 assessment remains probative of the bond calculus. The question before this Court is not whether
25 Petitioner will ultimately prevail on his CAT claim, but whether his continued detention without
26 any individualized bond hearing serves a legitimate civil purpose. The government's own
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28

1 officer's credibility finding — that Petitioner's testimony was credible, consistent, and met the
2 torture standard — directly undermines any assertion that he poses a flight risk or danger to the
3 community, regardless of the IJ's ultimate merits determination."

4 34. The CAT assessment is not a preliminary credible fear screening. It is a full
5 merits determination applying the same “more likely than not” legal standard that governs CAT
6 withholding and deferral claims before immigration judges and this Court. See 8 C.F.R. §§
7 1208.16(c)(2), 1208.17(a); *Kamalthas v. INS*, 251 F.3d 1279, 1283 (9th Cir. 2001). When USCIS
8 applied that standard to Baisangur Germakhanov, it concluded he met it. The government,
9 through its authorized officer, determined that if Petitioner is returned to Russia, it is more likely
10 than not that Chechen government forces will torture him.

12 35. That finding directly and fatally undermines the only legitimate purposes for
13 Petitioner’s civil detention. As to *flight risk*: a man who faces more-likely-than-not torture if
14 deported has a singularly powerful incentive to remain in the United States and pursue his legal
15 claims through every available channel. He is the prototypical non-flight-risk detainee —
16 someone whose very survival depends on the outcome of his immigration proceedings. *See*
17 *Padilla v. U.S. Immigr. and Customs Enf’t*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023)
18 (bona fide immigration claim and fear of return are evidence against flight risk). Petitioner’s BIA
19 appeal — his last administrative avenue — is currently pending. He has cooperated with every
20 immigration proceeding for eight months. He has no criminal record and no prior failures to
21 appear. There is no factual basis for any conclusion that he poses a flight risk.

24 36. As to *danger to the community*: Petitioner is a 27-year-old with no criminal
25 history, no history of violence, and no history of criminal conduct in any country. He is a former
26 small business owner who was victimized by government extortion and torture. He poses no
27 danger to any person in the United States. The government has never suggested otherwise.

1 37. The government therefore cannot simultaneously maintain two positions: (a) that
2 Petitioner more likely than not faces torture if returned to Russia; and (b) that his continued
3 detention without any bond hearing is constitutionally permissible. Position (a) — already
4 formally adjudicated by its own officer — destroys the factual foundation of position (b). A
5 detainee who would be tortured if removed, who has no criminal history, who has cooperated
6 with proceedings for eight months, and who is pursuing a pending BIA appeal cannot plausibly
7 be characterized as a flight risk or danger to the community. His prolonged, process-free
8 detention serves no legitimate civil purpose. It is punitive detention — the precise evil the Fifth
9 Amendment prohibits. The writ must issue.

11 ***D. Petitioner Has Never Been Afforded Any Opportunity to Be Heard***


12 38. The constitutional injury here is not merely that Petitioner was detained for a
13 prolonged period — it is that he was never afforded any opportunity to be heard on the question
14 of his own detention. He was not given notice that a bond determination would not be made. He
15 was not told what standard governed his custody. He was not informed of his right to request a
16 bond hearing. He navigated his entire removal proceeding — from initial detention through a full
17 merits hearing — without counsel, without any individualized custody determination, and
18 without any forum in which to present the uncontroverted facts that bear directly on the bond
19 calculus: his lack of criminal history, his consistent cooperation with proceedings, his credible
20 fear of return, and his compelling incentive to remain and pursue legal relief. The complete
21 absence of any procedural mechanism for contesting his detention is itself a violation of
22 procedural due process, independent of the duration of his confinement. *See Mathews v.*
23 *Eldridge*, 424 U.S. 319, 335 (1976); *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) ('The
24 Constitution requires some kind of a hearing before the State deprives a person of liberty.')

27 39. The procedural due process violation is further compounded by the fact that
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1 Petitioner appeared pro se throughout his removal proceedings. Without counsel, Petitioner had
2 no meaningful ability to identify, invoke, or pursue his right to a bond hearing — a right that
3 depends on knowledge of its existence, the ability to file a motion, and capacity to present
4 evidence before a neutral decisionmaker. The Ninth Circuit has recognized that the complexity
5 of immigration proceedings and the severity of the consequences demand meaningful procedural
6 protections. *See Dent v. Holder*, 627 F.3d 365, 373 (9th Cir. 2010). Where, as here, a detained
7 noncitizen facing potential torture is left to navigate a full merits proceeding without counsel and
8 without any bond hearing, the procedural safeguards the Constitution requires have failed
9 entirely.
10

11
12 **FACTUAL ALLEGATIONS**

13 ***A. Petitioner Crossed the Border Without Inspection and Was Immediately Taken Into***
14 ***ICE Custody, Where He Has Remained Without a Bond Hearing for Over Eight***
15 ***Months***

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17 40. Petitioner Baisangur Germakhanov was born on  in Grozny,
18 Chechen Republic, Russia. On June 30, 2025, Petitioner crossed the U.S.-Mexico border near
19 Calexico, California, and was immediately detained by U.S. immigration authorities. He has
20 been held in continuous custody at the Imperial Regional Detention Facility (IRDF), 1572
21 Gateway Road, Calexico, CA 92231, since that date — a period now exceeding eight months.

22
23 41. The Department of Homeland Security initiated removal proceedings against
24 Petitioner under INA § 212(a)(6)(A)(i), charging him as an alien present in the United States
25 without having been admitted or paroled. The Notice to Appear specifically noted that the
26 proceedings were initiated after an asylum officer found that Petitioner had "demonstrated a
27 credible fear of persecution or torture."
28

1 42. Petitioner's case proceeded before the Imperial Immigration Court. Immigration
2 Judge conducted merits proceedings on the asylum application. On January 27, 2026, IJ issued
3 an Order of Removal, denying Petitioner's applications for asylum, withholding of removal
4 under INA § 241(b)(3), withholding of removal under the CAT, and deferral of removal under
5 the CAT. DHS waived its right to appeal; Petitioner reserved his.

6 43. Petitioner filed a timely appeal to the Board of Immigration Appeals on February
7 17, 2026. The BIA issued a filing receipt on February 19, 2026, confirming receipt of the Case
8 Appeal. Pursuant to 8 C.F.R. § 1003.6, the filing of the appeal stays the order of removal.
9 Petitioner's removal order is therefore not final. He remains in pre-final-order detention under 8
10 U.S.C. § 1226.

11 44. At no point during his eight-plus months of detention has Petitioner received an
12 individualized bond hearing before an immigration judge or any other neutral decisionmaker. He
13 has never been afforded an opportunity to demonstrate that he is not a flight risk or danger to the
14 community. He has no criminal record.

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17 ***B. The Government's Own CAT Assessment Confirms Petitioner Is Not a Meaningful***
18 ***Flight Risk.***

19 45. The government's own CAT determination is directly relevant to the bond
20 calculus. A man who faces more-likely-than-not torture if deported is a man with the most
21 compelling reason to pursue his immigration claims through lawful channels — not to flee or
22 abscond. Petitioner has no criminal record, no history of failing to appear, and has consistently
23 cooperated with immigration proceedings while in detention. There is no factual basis for the
24 government's failure to afford him a bond hearing.
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27

28 **CLAIMS FOR RELIEF**

FIRST CLAIM FOR RELIEF

**Violation of the Fifth Amendment to the United States Constitution
(Substantive Due Process—Detention)**

46. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

47. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom 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*, 533 U.S. at 690.

48. Immigration detention is constitutionally permissible only when it furthers the government’s legitimate goals of ensuring the noncitizen’s appearance during removal proceedings and preventing danger to the community. *See id.*

49. Petitioner has been detained for over eight months without a bond hearing. He has no criminal record. He has no history of flight or failure to appear. There is no reasonable relationship between Petitioner’s prolonged detention and any legitimate government interest. His detention is therefore punitive and violates substantive due process.

SECOND CLAIM FOR RELIEF

**Violation of the Fifth Amendment to the United States Constitution
(Procedural Due Process—Detention)**

50. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

51. The Fifth Amendment guarantees noncitizens present in the country with due process rights, including the right to not be deprived of a liberty or property interest without notice and a hearing before a neutral decision-maker.

