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12 **UNITED STATES DISTRICT COURT**  
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 **BEHROOZ HAGHANI HAFEZI,**

15 Petitioner

16 VS.

17 **Christopher J LaRose**, Senior Warden Otay  
18 **Mesa Detention Center; Kristi Noem**,  
19 **Secretary Department of Homeland Security;**  
20 **Gregory J. Archambeault** Field Officer  
21 **Director Enforcement and Removal**  
22 **Operations (ERO) San Diego, CA. Todd M**  
23 **Lyons** Performing the Duties of the  
24 **Immigration and Customs Enforcement;**  
25 **Pamela Bondi** United States Attorney  
26 **General**

27 Respondents

Case No.: **'26CV1398 CAB JLB**

**PETITION FOR WRIT OF HABEAS  
CORPUS**

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

Petitioner respectfully petitions this Honorable court for writ of habeas corpus to remedy  
Petitioner's unlawful detention by Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

1           **I.       INTRODUCTION:**

- 2           1. Petitioner Behroz Haghani Hafezi, a native and citizen of Iran, brings this petition for  
3 writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge the legality of his  
4 current immigration detention. After more than twenty years of liberty in the community  
5 under an Order of Supervision, during which he complied with all conditions and  
6 committed no offenses, the Department of Homeland Security (“DHS”) summarily re-  
7 arrested him without notice, without a hearing, and without any individualized  
8 determination.  
9  
10          2. Petitioner’s detention is unlawful and violates the Due Process Clause of the Fifth  
11 Amendment.  
12  
13          3. First, DHS violated Petitioner’s procedural due process rights by revoking long-  
14 standing, government-authorized liberty without providing notice or a meaningful  
15 opportunity to be heard. For over twenty years, DHS permitted Petitioner to live in the  
16 United States under supervision and repeatedly accepted his compliance. On December  
17 10, 2025, Petitioner appeared for a routine ICE check-in. He was immediately taken into  
18 custody, without advance warning, without stating any basis for re-detention, and  
19 without conducting any custody review. This summary deprivation of liberty violates  
20 core procedural due process protections.  
21  
22          4. Second, DHS violated substantive due process by detaining Petitioner even though  
23 detention is no longer reasonably related to any legitimate immigration purpose. DHS  
24 previously determined, over a period of years, that detention was unnecessary and that  
25 supervision was sufficient because removal could not be executed, as Iran refused  
26 repatriation. Nothing material changed at the time of Petitioner’s re-arrest. He remained  
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28

1 compliant, posed no flight risk, and was not alleged to be dangerous. Under these facts,  
2 continued detention is excessive, punitive in effect, and unsupported by any regulatory  
3 justification.

4  
5 5. Third, DHS violated binding post-order custody regulations that strictly limit when a  
6 person released under an Order of Supervision may be returned to custody. Those  
7 regulations require an individualized determination based on changed circumstances  
8 and removal foreseeability, as well as notice and an opportunity to respond when release  
9 is revoked. DHS failed to identify any changed circumstances, failed to determine that  
10 removal had become reasonably foreseeable, and failed to provide any of the required  
11 procedural protections. DHS's disregard of these regulations renders Petitioner's  
12 detention unlawful from its inception.

13  
14 6. Petitioner's continued confinement has caused concrete harm. Petitioner, a widower, is  
15 the primary caretaker of his United States citizen child, who has solely relied on her  
16 father for emotional and financial support. Since the passing of her mother four years  
17 ago, Petitioner's daughter has experienced mental health issues and is heavily dependent  
18 on her only surviving parent for stability, care, and support. His sudden re-detention has  
19 disrupted essential family support that DHS has long recognized could be safely  
20 maintained through supervision.

21  
22 7. Because Petitioner's detention results from multiple constitutional and regulatory  
23 violations, habeas relief is required. Liberty was withdrawn without due process, and  
24 detention no longer serves any legitimate immigration purpose. Under these  
25 circumstances, continued confinement is punitive and unlawful. Petitioner therefore  
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28

1 seeks immediate release from immigration custody, subject to reasonable conditions of  
2 supervision if the Court deems them necessary.

3 **II. CUSTODY**

- 4  
5 8. Mr. Hafezi is detained in the legal and physical custody of Respondents at the Otay  
6 Mesa, where he is under the direct control of Respondents and their agents.

7 **III. JURISDICTION**

- 8  
9 9. This action arises under the Constitution of the United States and the Immigration and  
10 Nationality Act, 8 U.S.C. § 1101 et seq.  
11  
12 10. Jurisdiction is proper under 28 U.S.C § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal  
13 question); 28 U.S.C. § 1651 (All Writs Act); U.S. Const. art. I, § 9, cl. 2 (the Suspension  
14 Clause); and 5 U.S.C. § 702 (Administrative Procedure Act).

15 **IV. VENUE**

- 16  
17 11. Venue is proper in this district under 28 U.S.C. § 1391(b) and (e) because at least one  
18 Respondent—Respondent Christopher J LaRose, the legal custodian of Mr. Hafezi—is  
19 in this District, and a substantial part of the events giving rise to the claims in this action  
20 took place in this District. All material decisions about Mr. Hafezi’s detention have been  
21 made at the San Diego Field Office of ICE, which is located within San Diego,  
22 California.

23 **V. EXHAUSTION**

- 24  
25 12. Mr. Hafezi has exhausted the administrative remedies. He requested bond hearing  
26 before the Immigration Judge. A hearing was held on January 27, 2026, wherein the IJ  
27 denied the bond request finding no jurisdiction. Furthermore, exhaustion for habeas  
28 claims is prudential, not jurisdictional. See Laing v. Ashcroft, 370 F.3d 994, 997 (9th

1 Cir. 2004). The prudential exhaustion requirement may be waived if ““administrative  
2 remedies are inadequate or not efficacious, pursuit of administrative remedies would be  
3 a futile gesture, [or] irreparable injury will result.”” *Id.* at 1000. Administrative remedies  
4 would be futile, inadequate, and not efficacious for Mr. Hafezi. Exhausting his  
5 constitutional claim would be futile because the agency does not have the authority to  
6 rule on constitutional questions. See Wang v. Reno, 81 F.3d 808, 815–16 (9th Cir. 1996)  
7 (per curiam) (“the inability of the INS to adjudicate the constitutional claim completely  
8 undermines most, if not all, of the purposes underlying exhaustion”).  
9

10  
11 13. Even if exhaustion were not futile, waiver is warranted because Mr. Hafezi’s claim  
12 presents purely legal issues and no purpose is served by requiring an administrative  
13 appeal. See Hernandez v. Sessions, 872 F.3d 976, 988–89 (9th Cir. 2017).

14 **VI. PARTIES**

15  
16 14. Petitioner is a native and citizen of Iran who is detained in the custody of Immigration  
17 and Customs Enforcement (“ICE”) at Otay Mesa Detention Center in San Diego, CA.

18 15. Respondent **Christopher J. Larose** is the Senior Warden of Otay Mesa Detention  
19 Center, where Petitioner is detained. He is sued in his official capacity.


20 16. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security, an  
21 agency of the United States. She is responsible for the administration and enforcement  
22 of the immigration laws. See 8 U.S.C. § 1103(a). Respondent is a legal custodian of  
23 Petitioner. She is sued in her official capacity.  
24

25 17. Respondent **Gregory J. Archambeault** is the Field Office Director for Enforcement  
26 and Removal Operations (ERO), San Diego, California. He is sued in his official  
27 capacity.  
28

1 18. Respondent **Todd M. Lyons** is performing the duties of the Director of U.S.  
2 Immigration and Customs Enforcement (ICE). He is sued in his official capacity.

3 19. Respondent **Pamela Bondi** is the Attorney General of the United States. As Attorney  
4 General, Respondent has the authority to interpret the immigration laws and adjudicate  
5 removal cases and bond hearings. See 8 U.S.C. § 1103(g). The Attorney General  
6 delegates this responsibility to the Executive Office for Immigration Review, which  
7 administers the immigration courts and the BIA. Respondent Bondi is a legal custodian  
8 of Petitioner. She is sued in his official capacity.  
9

10 **VII. FACTUAL ALLEGATIONS**

11  
12 20. Petitioner, **Behrooz Hafezi-Haghani**,  is a 61-year-old native and  
13 citizen of Iran. He entered the United States in about 1988 without inspection.  
14 Deportation proceedings were initiated against Petitioner through an Order to Show  
15 Cause alleging that he was deportable from the United States pursuant to INA §  
16 241(a)(2) as a non-citizen who entered without inspection. Petitioner filed an asylum  
17 application with the Immigration Court on December 1, 1988. His application was  
18 denied on July 30, 1990. Petitioner timely filed an appeal with the Board of Immigration  
19 Appeals (“Board”) which affirmed the Immigration Judge’s decision. Petitioner timely  
20 filed a petition for review with the 9th Circuit Court of Appeals. His appeal was  
21 dismissed on June 26, 1996.  
22

23  
24 21. Petitioner subsequently filed a motion to reopen with the Board seeking to adjust his  
25 status through his United States citizen wife. His motion was granted and the record  
26 was remanded to the Immigration Judge on August 20, 2002. However, DHS filed a  
27 motion to reconsider arguing that Petitioner’s motion to reopen was untimely. The  
28

1 Board granted the DHS motion on August 30, 2002 and vacated its prior order granting  
2 Petitioner's motion to reopen to adjust his status.

3 22. Subsequently, in about 2007, Petitioner was taken into ICE custody and detained for a  
4 period of 7 to 8 months. During this time, DHS took affirmative steps to effectuate his  
5 removal to Iran but was unsuccessful.  
6

7 23. Accordingly, on February 14, 2008, Petitioner was released from ICE custody on an  
8 Order of Supervision ("OSUP"). As a condition of his release, Petitioner was required  
9 to and did comply with all reporting requirements. At no point did Petitioner violate the  
10 terms of his supervised release. Nor was he arrested, charged, or convicted of any crimes.  
11

12 24. On December 10, 2025, Petitioner voluntarily reported for his regularly scheduled ICE  
13 check-in. While complying with his reporting requirement, Petitioner was arrested by  
14 ICE agents and taken into custody.

15 25. Petitioner has been detained at the Otay Mesa Detention Center since the date of his  
16 arrest. He was not arrested for any criminal conduct, supervision violation, or failure to  
17 appear.  
18

19 26. During his ICE intake interview, Petitioner reported suffering from significant medical  
20 conditions, including high blood pressure, pre-diabetes, liver complications, and anemia.  
21 On the day of his arrest, he was scheduled to make an appointment for a follow-up  
22 ultrasound, as doctors had previously identified something suspicious that required  
23 further evaluation. Although ICE indicated he was medically cleared for detention,  
24 Petitioner informed officers that he suffers from chronic health issues and required  
25 ongoing medical treatment.  
26  
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28

1 27. Following his arrest, Petitioner requested a custody redetermination hearing before the  
2 Immigration Court pursuant to 8 C.F.R. § 1236. On January 27, 2026, Immigration  
3 Judge Mark Sameit denied Petitioner's request finding that there was a final order of  
4 removal. The Immigration Judge did not conduct an individualized assessment of  
5 Petitioner's risk of dangerousness or flight.  
6

7 28. Accordingly, Petitioner never received a constitutionally meaningful bond  
8 determination addressing whether continued detention is necessary to serve any  
9 legitimate government purpose.  
10

11 29. Petitioner's immediate family members reside in the United States and have been  
12 granted protection based on past persecution in Iran. While some extended family  
13 members remain in Iran, they have recently suffered harm. Namely, in 2022, Iranian  
14 regime guards assaulted Petitioner's nephew, [REDACTED] breaking his leg and  
15 causing permanent damage. In 2023, Petitioner's nephew, [REDACTED] was arrested by  
16 Iranian police on false charges. In total [REDACTED] was detained by Iranian police three times  
17

18 30. In addition to the recent persecution of family members by Iranian security forces,  
19 Petitioner recently discovered that the individual who prepared his original asylum  
20 claim, Mr. Sohrab Sameni, had falsely represented himself as an attorney. He was later  
21 convicted of immigration fraud and deported to Iran.  
22

23 31. Accordingly, on January 14, 2026, Petitioner filed a Motion to Reopen with the Board  
24 based on changed country conditions in Iran and immigration fraud affecting his original  
25 asylum claim. The motion is currently pending.  
26

27 32. Petitioner remains detained at the Otay Mesa Detention Center under a final order of  
28 removal while his Motion to Reopen remains pending before the Board. ICE has

1 indicated that he is being held pending removal to Iran. However, there is nothing to  
2 indicate that ICE can successfully effectuate Petitioner's removal. Thus he remains  
3 detained indefinitely with no foreseeable possibility of removable in the future.

4 33. Petitioner is a 61-year-old Iranian national with no criminal history,  
5 longstanding residence in the United States, significant family ties, chronic medical  
6 conditions, and a pending Motion to Reopen before the Board. He was arrested while  
7 voluntarily complying with ICE supervision and has never received a meaningful  
8 individualized bond determination. Petitioner has no criminal history. Rather, he was  
9 detained following an unlawful OSUP revocation.  
10

11 34. **VII. LEGAL ARGUMENT**

12 **COUNT I**

13 ***A. Violation of the Fifth Amendment Due Process Clause***

14 35. The Fifth Amendment's Due Process Clause applies to all persons within the United  
15 States, including noncitizens held in civil immigration custody. Zadvydas, 533 U.S. at  
16 693. Because immigration detention is civil rather than criminal, it is constitutionally  
17 permissible only insofar as it remains nonpunitive and reasonably related to a legitimate  
18 governmental purpose, and only when imposed through constitutionally adequate  
19 procedures. Id. at 690; Wong Wing v. United States, 163 U.S. 228, 237 (1896).  
20

21 36. Freedom from physical restraint lies at the core of the liberty protected by the Due  
22 Process Clause. Zadvydas, 533 U.S. at 690. Accordingly, civil detention that loses its  
23 regulatory justification, becomes excessive in relation to its purpose, or is imposed  
24 without adequate procedural safeguards raises serious constitutional concerns. Outside  
25 limited and carefully regulated contexts, the government may not deprive an individual  
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1 of physical liberty without strong justification and meaningful processes. United States  
2 v. Salerno, 481 U.S. 739, 746 (1987); Foucha v. Louisiana, 504 U.S. 71, 80 (1992).

3 37. These principles frame the constitutional inquiry here. Where the government has  
4 affirmatively authorized liberty, allowed that liberty to persist over many years, and then  
5 withdrawn it through physical detention without notice, hearing, or individualized  
6 justification, habeas corpus provides the appropriate vehicle for judicial review. The  
7 Court must therefore assess whether Petitioner's re-detention remains reasonably  
8 related to a legitimate immigration purpose and whether it was imposed through  
9 procedures sufficient to satisfy the Fifth Amendment.

10  
11  
12 **(i) Substantive Due Process**

13 38. Petitioner seeks immediate release because, under the Fifth Amendment's Due Process  
14 Clause, his continued detention is no longer reasonably related to a legitimate  
15 immigration purpose and has instead become punitive and harmful in effect.

16  
17 39. Under the substantive component of the Fifth Amendment's Due Process Clause, civil  
18 immigration detention violates the Constitution when it ceases to advance its regulatory  
19 purpose and instead inflicts serious harm. Zadvydas, 533 U.S. 678, 690 (2001); Wong  
20 Wing v. United States, 163 U.S. 228, 237 (1896).

21 40. Here, DHS re-arrested Petitioner on December 10, 2025, after he had lived in the  
22 community for more than twenty years under an Order of Supervision without incident.  
23 During that period, Petitioner complied with all conditions of supervision, including  
24 reporting to ICE as directed. He did not commit any criminal offenses. DHS did not  
25 provide advance notice, an opportunity to be heard, or any individualized custody  
26  
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1 determination prior to his re-detention. Under these facts, detention no longer advances  
2 removal or any other legitimate civil objective.

3 41. Here, the current detention has also become affirmatively harmful. When DHS initially  
4 released Petitioner and allowed him to live in the community for years, it created an  
5 implied promise on which Petitioner relied in structuring his life for more than twenty  
6 years. Prior to detention, Petitioner worked, supported his family, and served as the  
7 caretaker of his United States citizen daughter.

8  
9 42. Moreover, DHS is not detaining Petitioner pursuant to any civil commitment statute and  
10 has not obtained any findings of dangerousness supported by the heightened safeguards  
11 the Constitution requires. Instead, DHS relies solely on general immigration detention  
12 authority after allowing Petitioner to remain at liberty under supervision for more than  
13 twenty years. Under the Fifth Amendment, civil detention that inflicts serious harm  
14 while failing to serve its regulatory purpose is unconstitutional, even where statutory  
15 detention authority exists. Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

16  
17  
18 43. Courts in California have granted habeas relief on materially similar facts. In Rios v.  
19 Noem, No. 3:25-cv-02866-JES-VET (S.D. Cal. Nov. 10, 2025), the court ordered  
20 release where DHS re-detained a noncitizen after years of successful supervision  
21 without demonstrating that renewed detention was reasonably related to a legitimate  
22 regulatory purpose. Similarly, in Constantinovici v. Bondi, No. 3:25-cv-02405-RBM-  
23 AHG (S.D. Cal. Oct. 10, 2025), the court granted habeas relief where DHS revoked  
24 supervision despite years of compliance and no materially changed circumstances. The  
25 court reached the same conclusion in Kaztashyan v. Warden of the Golden State Annex  
26 Detention Facility, No. 1:25-cv-01526-DC-SCR (E.D. Cal. 2025), emphasizing that  
27  
28

1 prolonged compliance under supervision weighs strongly against re-detention absent an  
2 individualized justification.

3 44. As in those cases, detention here has ceased to function as a civil regulatory measure.

4 In addition, unlike many re-detention cases, the harm here is acute and documented:  
5 Petitioner's detention has disrupted medical care for Petitioner. Recent reports indicate  
6 that number of detainees have been died in the custody of respondent under similar  
7 conditions for lack of medical care.  
8

9 45. Petitioner is currently detained at the Otay Mesa ICE Processing and faces a threat of  
10 removal to Iran, a country to which he has no meaningful connections after living in the  
11 United States since 1988.  
12

13 46. Assuming *arguendo* that DHS retains statutory detention authority, the Fifth  
14 Amendment independently forbids continued detention under these circumstances.  
15 Substantive due process therefore requires Petitioner's immediate release from custody.  
16

17 ***(ii) Procedural Due Process Violation***

18 47. Separately and independently, Petitioner seeks immediate release because DHS violated  
19 procedural due process under the Fifth Amendment when it revoked his long-standing,  
20 government-authorized liberty without notice and without a meaningful opportunity to  
21 be heard.  
22

23 48. Under the Fifth Amendment, procedural due process is required whenever the  
24 government seeks to deprive a person of physical liberty. At its core, due process  
25 requires notice and an opportunity to be heard at a meaningful time and in a meaningful  
26 manner. Mathews v. Eldridge, 424 U.S. 319, 333 (1976). Here, when petitioner was  
27 rearrested at ICE check-in, he was not never given notice or an opportunity to be heard  
28

1 in the incept of the detention, notice is required before detention and without such  
2 procedure, the current detention is unlawful.

3  
4 49. When the government affirmatively confers liberty and later withdraws that liberty  
5 through detention, due process requires procedures sufficient to guard against erroneous  
6 or arbitrary confinement. Morrissey v. Brewer, 408 U.S. 471, 482 (1972). Here,  
7 petitioner was allowed to live at liberty for over twenty years that the government gave  
8 him, such liberty cannot be summary withdrawn without safeguards.

9  
10 50. Courts assess the adequacy of procedural protections by balancing three factors: (1) the  
11 private interest affected, (2) the risk of erroneous deprivation under the procedures used  
12 and the value of additional safeguards, and (3) the government's interest. Mathews, 424  
13 U.S. at 335.

14  
15 51. Courts in California have applied this framework to challenges arising from  
16 immigration re-detention following supervised release. See, e.g., Rios v. Noem, No.  
17 3:25-cv-02866-JES-VET (S.D. Cal. Nov. 10, 2025); Constantinovici v. Bondi, No.  
18 3:25-cv-02405-RBM-AHG (S.D. Cal. Oct. 10, 2025); Kaztashyan v. Warden of the  
19 Golden State Annex Detention Facility, No. 1:25-cv-01526-DC-SCR (E.D. Cal. 2025);  
20 Khan v. Noem, No. 1:25-cv-01411-EPG-HC, 2025 WL 3089352, at \*5 (E.D. Cal. Nov.  
21 5,2025).

22  
23 *a. Private Interest*

24 52. The private interest at stake is significant. Freedom from physical confinement lies at  
25 the core of the liberty protected by the Due Process Clause. Zadvydas v. Davis, 533 U.S.  
26 678, 690 (2001); Hamdi v. Rumsfeld, 542 U.S. 507, 529 (2004). That interest retains  
27 constitutional protection even when liberty is conditional. When the government  
28

1 permits a person to live in the community subject to conditions, that conditional liberty  
2 “is valuable and must be seen as within the protection of the Due Process Clause.”  
3 Morrissey, 408 U.S. at 482.

4  
5 53. Here, on February 14, 2008, DHS released Petitioner into the community under an Order  
6 of Supervision and permitted him to remain at liberty for nearly twenty years. During  
7 that period, Petitioner complied with the terms of his Order of Supervision, including  
8 reporting to ICE as directed. DHS repeatedly accepted his compliance and did not allege  
9 any violation of supervision prior to his re-detention. Kaztashyan; Khan; Doe v. Becerra,  
10 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025).

11  
12 54. Petitioner relied on that government-authorized liberty and structured his life  
13 accordingly. He worked, supported his family, and served as the sole caretaker of his  
14 United States citizen daughter.

15  
16 55. On December 10, 2025, DHS withdrew that long-standing liberty while Petitioner was  
17 complying with supervision, taking him into custody at his ICE check-in without notice,  
18 an opportunity to be heard, or any individualized custody determination. The  
19 withdrawal of years of relied-upon liberty through physical confinement constitutes a  
20 grievous loss. Morrissey, 408 U.S. at 482. This factor weighs heavily in Petitioner’s  
21 favor.

22  
23 ***b. Risk of Erroneous Deprivation***

24 56. The second Mathews factor examines the risk that the procedures used will result in an  
25 erroneous deprivation of liberty and the value of additional safeguards. Mathews, 424  
26 U.S. at 335.

1 57. That risk was high here. Petitioner was re-detained on December 10, 2025, without  
2 advance notice, without a written custody determination, and without any opportunity  
3 to respond. DHS made no individualized assessment of flight risk, danger to the  
4 community, or changed circumstances. Detention was imposed first, without any pre-  
5 deprivation process.  
6

7 58. Courts have recognized that this sequence presents a substantial risk of error. In Valdez  
8 v. Joyce, 2025 WL 1707737, at \*4 (S.D.N.Y. June 18, 2025), the court held that re-  
9 detention without changed circumstances or procedure creates a high risk of erroneous  
10 deprivation. R.D.T.M. v. Wofford, 2025 WL 2617255, at \*4 (E.D. Cal. Sept. 9, 2025);  
11 Manzanarez v. Bondi, 2025 WL 3247258, at \*4 (E.D. Cal. Nov. 20, 2025).  
12

13 59. The risk of error was further heightened by what DHS did not do at the time of re-  
14 detention. DHS provided no notice and no opportunity to be heard before imposing  
15 confinement after more than fifteen years of supervised release and compliance.  
16

17 60. By contrast, the value of additional safeguards was substantial. Even minimal  
18 procedures, such as notice of the basis for re-detention and an opportunity to respond,  
19 would have allowed Petitioner to demonstrate his long-standing compliance and the  
20 absence of any changed circumstances justifying re-detention. This factor strongly  
21 favors Petitioner.  
22

23 ***c. Government's Interest***

24 61. The third Mathews factor considers the government's interest and the administrative  
25 burdens of additional procedures. Mathews, 424 U.S. at 335.

26 62. The government's general interests include ensuring appearance at proceedings and  
27 protecting the community. Zadvydas, 533 U.S. at 690. Those interests are not  
28

1 meaningfully advanced by summary re-detention on these facts. DHS managed  
2 Petitioner through community supervision for more than fifteen years, during which he  
3 consistently appeared for check-ins and was never alleged to have violated conditions  
4 or posed a danger. Hernandez v. Sessions, 872 F.3d 976, 994 (9th Cir. 2017); Garcia v.  
5 Andrews, 2025 WL 1927596, at \*5 (E.D. Cal. July 14, 2025).

6  
7 63. There was no advance notice, no opportunity to be heard, and no individualized custody  
8 determination prior to Petitioner's re-detention. Courts have repeatedly rejected the  
9 notion that providing notice and an individualized custody determination imposes a  
10 significant administrative burden. Custody hearings are routine, and the government's  
11 interest in detaining a petitioner without a hearing is low. Khan v. Noem, 2025 WL  
12 3089352, at \*5; Diaz v. Kaiser, 2025 WL 1676854, at \*3 (N.D. Cal. June 14, 2025);  
13 Carballo v. Andrews, 2025 WL 2381464, at \*8 (E.D. Cal. Aug. 15, 2025); Ortega v.  
14 Bonnar, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

15  
16  
17 64. Requiring minimal procedural safeguards would not impede enforcement. It would  
18 simply require DHS to justify detention through an individualized determination rather  
19 than default incarceration.

20 ***d. Balancing the Mathews Factors***

21 65. When the Mathews factors are balanced, they favor Petitioner. Petitioner's liberty  
22 interest is substantial. The risk of erroneous deprivation is significant where DHS  
23 withdraws long-standing conditional liberty without notice or an opportunity to be heard.  
24 At the same time, the government's interests can be adequately protected through  
25 procedures requiring individualized justification for detention. Kaztashyan; Khan;  
26 R.D.T.M.; Doe v. Becerra, 787 F. Supp. 3d at 1093.

1 66. Accordingly, DHS's summary re-detention of Petitioner, by revoking his liberty without  
2 notice and without a meaningful opportunity to be heard, violates the Due Process  
3 Clause of the Fifth Amendment.

4  
5 *(iii). DHS's failure to follow 8 C.F.R. §§ 241.13 and 241.4 in revoking Petitioner's  
release violates the Due Process Clause.*

6 67. Independently, Petitioner seeks immediate release because DHS failed to comply with  
7 its own regulations governing post-order custody and supervision under 8 C.F.R. §§  
8 241.13 and 241.4, resulting in unlawful detention in violation of the Fifth Amendment.

9  
10 68. As a threshold matter, due process is violated when an agency fails to follow regulations  
11 that were promulgated to protect individual liberty interests. United States ex rel.  
12 Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954). Where a regulation governs the  
13 revocation of previously authorized liberty, the agency's disregard of that regulation  
14 renders the resulting detention unlawful. Montilla v. INS, 926 F.2d 162, 169 (2d Cir.  
15 1991).

16  
17 69. Here, Petitioner was released into the community pursuant to an Order of Supervision  
18 beginning in or around 2002 and remained at liberty for nearly twenty years. His custody  
19 is therefore governed by the post-order supervision framework set forth in 8 C.F.R. §§  
20 241.13 and 241.4, which constrain DHS's authority to revoke release and require  
21 specific substantive findings and procedural protections before re-detention may occur.

22  
23 70. Critically, the regulation sets out mandatory procedures that must accompany any  
24 revocation of release. Upon revocation, DHS must notify the noncitizen of the reasons  
25 for revocation and must conduct an initial informal interview promptly after return to  
26 custody to afford the person an opportunity to respond. 8 C.F.R. § 241.13(h)(3). These  
27  
28

1 procedural requirements are designed to prevent arbitrary re-detention and to ensure that  
2 custody remains reasonably related to a legitimate regulatory purpose.

3 71. DHS did not comply with these requirements. On January 8, 2026, DHS re-detained  
4 Petitioner during his annual ICE check-in without prior written notice, without  
5 identifying any changed circumstances, and without determining that removal had  
6 become reasonably foreseeable after more than fifteen years of supervised release. DHS  
7 did not allege that Petitioner violated supervision, committed any offense, or posed a  
8 danger to the community. Nor did DHS provide any explanation suggesting that  
9 removal, which had not occurred for years, had suddenly become likely.  
10

11  
12 72. Moreover, DHS failed to follow the revocation procedures mandated by regulation.  
13 Petitioner was taken into custody without being notified of the reasons for revocation  
14 and without any opportunity to respond, either before or promptly after re-detention. No  
15 informal interview or individualized custody review occurred as required by 8 C.F.R. §  
16 241.13(h)(3). Instead, detention was imposed summarily and without process.  
17

18 73. Courts in California have granted habeas relief where DHS re-detains an individual  
19 following prolonged supervised release without complying with the post-order custody  
20 regulations. See, e.g., Rios v. Noem, No. 3:25-cv-02866-JES-VET (S.D. Cal. Nov. 10,  
21 2025); Constantinovici v. Bondi, No. 3:25-cv-02405-RBM-AHG (S.D. Cal. Oct. 10,  
22 2025).  
23

24 74. The regulatory violation is especially significant on these facts. Petitioner lived in the  
25 community from approximately 2008 to 2026. He remained on supervised release and  
26 complied with all supervision requirements. He was re-detained while complying with  
27  
28

1 those conditions. The safeguards DHS disregarded exist precisely to prevent arbitrary  
2 detention in situations such as this.

3 75. Because DHS failed to comply with 8 C.F.R. §§ 241.13 and 241.4 before revoking  
4 Petitioner's liberty, his continued detention is unlawful and independently violates the  
5 Due Process Clause of the Fifth Amendment. This failure provides a separate and  
6 sufficient basis for habeas relief.  
7

8 ***COUNT II***

9 ***Violation of Article III and Separation of Powers Through Executive Defiance of***  
10 ***Judicial Authority***

11 76. Petitioner seeks immediate release from custody because the Executive Branch has  
12 exceeded its constitutional authority and encroached upon the exclusive role of Article  
13 III courts. Where the executive branch detains a person while openly disregarding  
14 binding federal court decisions and insulating detention decisions from meaningful  
15 judicial enforcement, continued confinement violates the Constitution's separation of  
16 powers and renders executive adjudication constitutionally inadequate.  
17

18 77. Article III of the United States Constitution vests the judicial power of the United States  
19 exclusively in the federal courts. U.S. Const. art. III, § 1. That authority includes the  
20 power to interpret the law and to ensure that executive detention complies with  
21 constitutional limits. Habeas corpus serves as a core structural safeguard against  
22 executive overreach by permitting courts to test the legality of detention and to order  
23 release where constitutional violations persist. Boumediene v. Bush, 553 U.S. 723, 765  
24 (2008).  
25  
26

27 78. Federal courts have repeatedly condemned executive branch detention practices that  
28 operate in defiance of Article III authority. In Maldonado Bautista v. Ernesto Santacruz,

1 No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), the district court restored bond  
2 eligibility after holding that the government’s interpretation of detention authority was  
3 unlawful. Despite entry of a final judgment, immigration adjudicators acting under  
4 executive control declined to follow the court’s nationwide ruling.  
5

6 79. That executive defiance was addressed directly in Inzunza v. Warden of Adelanto  
7 Detention Facility et al., No. 5:26-cv-00078-SSS-BFM (C.D. Cal. Jan. 27, 2026), where  
8 the court found that Respondents had “deliberate[ly]” continued to rely on legal  
9 interpretations that had already been held unlawful. The court observed that “[d]espite  
10 the final judgment in Maldonado Bautista, it appears that immigration judges continue  
11 to rely on legal interpretations that were expressly found unlawful,” and collaterally  
12 estopped Respondents from relitigating the issue.  
13

14 80. Similarly, the United States District Court for the Western District of Texas granted  
15 habeas relief based on executive detention conducted in disregard of constitutional  
16 limits. In Conejo Arias v. Noem, No. SA-26-CV-415-FB (W.D. Tex. Jan. 31, 2026),  
17 Judge Fred Biery ordered immediate release, holding that “the Constitution of these  
18 United States trumps this administration’s detention” and emphasizing that  
19 “[a]dministrative warrants issued by the executive branch to itself do not pass probable  
20 cause muster.” The court further underscored that “[t]he Constitution requires an  
21 independent judicial office  
22  
23

24 81. Here, this Court can resolve Petitioner’s motion either by ordering his immediate release  
25 or by directing Respondent to provide him with a bond hearing before an immigration  
26 judge. However, Petitioner submits that immediate release is the appropriate remedy to  
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28

1 safeguard against constitutional overreach by the executive branch and to preserve his  
2 constitutional rights to due process.

3  
4 82. Immigration judges are not part of the judicial branch. Rather, they are administrative  
5 employees of the Executive Office of Immigration Review (“EOIR”), an agency  
6 operates under the executive branch. Although EOIR states that its mission is to  
7 adjudicate immigration cases “fairly, expeditiously, and uniformly,” this objective has  
8 been undercut by the current administration’s hard-line immigration agenda, which  
9 includes a militarization of the immigration court system, mass arrest and detention of  
10 immigrants, and encroachment on federal judicial authority.

11  
12 83. On June 27, 2005, the acting director of EOIR issued a nationwide memorandum to all  
13 immigration judges accusing certain judges of bias against the administration and  
14 threatening to terminate their employment. Shortly thereafter, the administration  
15 engaged in a mass firing of judges who did not align with its deportation goals and  
16 replaced them with unqualified temporary military lawyers. “Most of the judges fired  
17 judges either had higher rates of granting asylum, were former immigration defense  
18 attorneys, or had dual citizenship.” In doing so, the administration essentially purged  
19 EOIR of immigration judges who did not align with its objectives turned the  
20 immigration courts into a tool to advance anti-immigration policies. What has resulted  
21 is an abuse of executive power in which EOIR has blatantly circumvented the federal  
22 judiciary.

23  
24  
25 84. Specifically, on July 8, 2025, ICE issued an internal memorandum, deviating from long-  
26 standing precedent, calling for the arrest and mandatory detention of millions of  
27 undocumented immigrants. Specifically, the DHS Interim Policy held that any non-  
28

1 citizen present in the United States without being admitted or paroled was subject to  
2 mandatory, indefinite detention under INA § 235(b). The BIA, which also falls under  
3 the purvey of the executive branch, codified mandatory detention through its subsequent  
4 issuance of Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025) and Matter of Yujure Hurtado.

5  
6 85. On December 18, 2025, the United States District Court for the Central District of  
7 California in Maldonado Bautista, entered a final judgment restoring bond eligibility for  
8 the aforementioned individuals. In so doing, the Court specifically vacated the DHS  
9 Interim Policy under the Administrative Procedure Act as not in accordance with law.  
10 5 U.S.C. § 706(2)(A). Despite this, EOIR, acting under the direction of the executive  
11 branch, unilaterally decided it was not bound by the federal court's ruling.  
12

13 86. Specifically, on January 13, 2025, Chief Immigration Judge Teresa L. Riley issued a  
14 nationwide guidance instructing all immigration judges not to follow Maldonado  
15 Bautista stating it was not binding on the immigration courts. The failure by the  
16 executive branch to recognize the validity of a decision by an Article III Court amounts  
17 to constitutional overreach and encroaches on the judiciary's authority to interpret the  
18 law.  
19

20 87. On January 27, 2026, the United States Central District Court of California, in Inzuna  
21 v. Warden of Adelanto Detention Facility et al., 5:26-cv-00078-SSS-BFM, denounced  
22 the open defiance by immigration judges stating that Respondents have "deliberate[ly]"  
23 continued to defy Maldonado Bautista. Specifically, the Court held that "[d]espite the  
24 final judgement in Bautista, it appears that immigration judges continue to rely on legal  
25 interpretations that were expressly found unlawful."  
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1 88. On February 18, 2026, the United States District Central District Court of California, in  
2 Maldonado Bautista v. Santracruz, 5:25-cv-01873-SSS-BFM (2026) (“Bautista II”),  
3 vacated Matter of Yujure Hurtado due to its continued reliance by Respondents.

4 89. Bautista II centered exclusively on Respondents continued blatant defiance of federal  
5 court orders and interpretations of law. As stated by Federal District Court Judge Sykes  
6 the Respondents, who act on behalf of executive agencies “have far crossed the  
7 boundaries of constitutional conduct.” Respondents continue to ignore federal district  
8 court decisions and implement the executive agency’s legal interpretation of the law  
9 thereby eroding “any semblance of separation of powers.” Id.

10 90. On February 19, 2026, one day after the ruling in Bautista II, the immigration judges  
11 resumed denying bond to persons arrested in the United States citing to the Board’s  
12 holding in Matter of Q. Li. Matter of Q.Li, like Matter of Yujure Hurtado, is also  
13 “functionally equivalent to the DHS Interim Policy, which was vacated in Maldonado-  
14 Bautista.”

15 91. What this translates into for the purposes of the present case is EOIR’s continued efforts  
16 to circumvent judicial orders even after habeas grants. What can only be described as  
17 an effort to “sabotage habeas victories,” many immigration judges are “routinely  
18 conducting court ordered bond hearings that can only be described as bad faith.”  
19 Specifically, on a nationwide level, immigration judges routinely deny bonds based on  
20 a unsubstantiated finding of “flight risk.” As reflected in the attached exhibits, bond  
21 orders often state that the noncitizen has failed to establish that s/he is not a flight risk  
22 without providing any reasoning or analysis. In most cases, the flight risk finding is  
23 unsupported by the record as the detainees seeking bond had previously been released  
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1 from ICE custody on an order of supervision and complied with the terms of their  
2 release. Many in fact, were arrested while appearing for court or during an ICE check-  
3 in.

4  
5 92. Even assuming that certain factors exist that may affect an individual's flight risk, a  
6 determination that no bond could address those concerns is unreasonable. Immigration  
7 judges have wide discretion to impose conditions of release, including higher bond  
8 amounts or alternatives to detention such as electronic monitoring yet have elected not  
9 to do. Rather, they have constructively continued to subject immigrants to mandatory  
10 detention.

11  
12 93. This nationwide pattern of bond denials following habeas grants based solely on a  
13 unsubstantiated flight risk finding suggests the existence of internal guidance directing  
14 immigration judges to continue circumventing federal court orders, in the same manner  
15 in which they were explicitly instructed to disregard the district court's decision in  
16 Maldonado Bautista, in order to subject immigrants to detention.

17  
18 94. In Petitioner's specific case, the record reflects that Petitioner has lived in the  
19 community since 1988 pursuant to an Order of Supervision. During that period, he  
20 complied with all reporting requirements, maintained a stable residence, and committed  
21 no criminal offenses. DHS repeatedly elected to continue supervision rather than  
22 detention, reflecting its own assessment that confinement was not necessary to serve  
23 any regulatory purpose.

24  
25 95. Petitioner also has substantial family ties in the United States. He was married to a  
26 United States citizen who has passed away and has a United States citizen daughter. He  
27 also has his siblings who are United States citizens. On this record, continued detention  
28

1 is not necessary to ensure appearance or compliance, and the government's interests can  
2 be adequately served through continued supervision rather than physical confinement

3 ***VIII. CONCLUSION***

4  
5 96. For the reasons set forth above, Petitioner's continued detention is unlawful. DHS re-  
6 arrested Petitioner after twenty years of successful supervision in the community,  
7 without notice, without any individualized justification, and without procedures  
8 sufficient to protect against the erroneous deprivation of liberty. Petitioner complied  
9 with all conditions of supervision, committed no new offenses, and was re-detained  
10 without any allegation of noncompliance. Under these facts, detention no longer  
11 advances any legitimate immigration purpose and instead constitutes punitive  
12 confinement in violation of the Fifth Amendment's Due Process Clause.

13  
14 97. Independently, DHS failed to comply with the governing post-order custody regulations  
15 that strictly limit when previously authorized liberty may be withdrawn. For nearly  
16 twenty years, DHS determined that supervision was appropriate because removal could  
17 not be executed to Iran. DHS nevertheless re-detained Petitioner without identifying any  
18 changed circumstances, without determining that removal had become reasonably  
19 foreseeable, and without providing the notice and opportunity to respond required by  
20 regulation. When DHS disregards these binding regulatory constraints, the resulting  
21 detention is unlawful and violates due process.

22  
23  
24 98. Finally, DHS's own conduct confirms that continued detention serves no legitimate  
25 regulatory function. For more than twenty years, DHS managed Petitioner through  
26 community supervision. Nothing changed on December 10, 2025, other than DHS's  
27

1 unilateral decision to incarcerate him at a routine check-in. No additional administrative  
2 action can cure these defects. Immediate judicial intervention is therefore required.

3 ***IX. PRAYER FOR RELIEF***

4 *WHEREFORE, Petitioner respectfully requests that this Court:*

- 5
- 6 a. Grant the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.
- 7 b. Order Petitioner’s immediate release from ICE custody, subject to such reasonable  
8 conditions of supervision as the Court deems appropriate.
- 9 c. Declare that Petitioner’s re-arrest and continued detention violate the Fifth  
10 Amendment’s Due Process Clause.
- 11 d. In the alternative, order Respondents to provide Petitioner with an individualized  
12 custody determination hearing before a neutral decision-maker, at which the  
13 Government bears the burden of justifying continued detention and where less  
14 restrictive alternatives to detention are meaningfully considered.
- 15 e. Order that any future arrest, detention, or revocation of supervision involving Petitioner  
16 comply with the Constitution and governing law, including advance notice, an  
17 individualized determination, and strict adherence to applicable regulations, including  
18 but not limited to 8 C.F.R. §§ 241.4 and 241.13;
- 19 f. Award Petitioner reasonable attorney’s fees and costs, including pursuant to the Equal  
20 Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
- 21 g. Grant such other and further relief as the Court deems just and proper.
- 22  
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1 Dated: March 04, 2026

2  
3 Respectfully Submitted,  
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VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under the penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct. Executed this February 4th day of March 2026.

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