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DETAINED

8 Attorneys for Petitioner Aisara Issenova
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12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 In the matter of:)

Case Number: '26CV1432 BJC B JW

15)
16 ISSENOVA AISARA)

A-Number 

17 v.)
18 SIXTO MARRERO, WARDEN)
19 OF IMPERIAL REGIONAL)
20 ADULT DETENTION FACILITY)

PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT
FOR DECLARATORY RELIEF

)
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) Challenge to Unlawful
) Incarceration; Request for
) Declaratory Relief
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PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT FOR DECLARATORY RELIEF

ZOHRABYAN
-LAW, APC-



STATEMENT OF FACTS

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3 1. Petitioner Aisara Issenova is a native and citizen of Kazakhstan. She entered the
4 United States at New York City, New York, on or about February 13, 2016, as a
5 nonimmigrant B-2 visitor authorized to remain in the United States for a temporary
6 period not to exceed six months.

7 2. Petitioner fled Kazakhstan to escape persecution by the Kazakhstani
8 government and police on account of her political opinion. Petitioner is a
9 representative of the [REDACTED] a religious organization that is
10 banned and actively persecuted by government authorities and law enforcement in
11 Kazakhstan. As a result of this persecution, on or about July 2, 2016, Petitioner timely
12 filed Form I-589, Application for Asylum and for Withholding of Removal, with
13 USCIS.

14 3. Petitioner has resided and worked in the United States since 2017, consistently
15 complying with federal tax filing requirements each year.

16 4. On January 15, 2026, ICE detained Petitioner and transferred her to the Imperial
17 Regional Adult Detention Facility. That same day, ICE terminated Petitioner's parole
18 and issued a new Notice to Appear, alleging that she is an alien present in the United
19 States who has not been admitted or paroled.

20 5. Since entering the United States, Petitioner has complied with all conditions of
21 her admission. She timely filed her Form I-589 application for asylum and
22 withholding of removal, obtained work authorization, and was issued both a driver's
23 license and a United States Social Security card.

24 6. Petitioner remains willing, ready, and able to maintain lawful employment,
25 contribute to her community, and has consistently paid her federal taxes.
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1 7. Petitioner appeared for a bond hearing on February 27, 2026, at which the
2 Immigration Judge denied release based on the government's unsupported assertion
3 that Petitioner posed a danger to the community. This conclusion was not grounded
4 in the record. Petitioner does not have any criminal record. Nor Respondents provided
5 any proof that Petition was actually danger to community. The government relied
6 solely on speculative allegations regarding Petitioner's work as a commercial truck
7 driver and failed to present any evidence that Petitioner has ever operated a
8 commercial vehicle in violation of federal regulations, including those governing
9 English-language proficiency. See Exhibit C, Bond Order.

10 8. On the contrary, the Petitioner demonstrated on the records that she reads and
11 speaks the English language sufficiently to converse with the general public, that she
12 understands highway traffic signs and signals in the English language. Likewise,
13 Petitioner demonstrated that she is able to respond to official inquiries, and to make
14 entries on reports and records, as required by federal commercial driver safety
15 standards.

16 9. Petitioner answered all questions posed at the hearing in English, and any
17 alleged language limitations provide no lawful basis to deny release.

18 10. Petitioner has been a licensed commercial truck driver for nearly four years,
19 maintaining a clean driving record with no accidents, citations, or violations of any
20 state or federal motor carrier regulations. Nothing in the record indicates that
21 Petitioner poses any danger to the community. The Immigration Judge's reliance on
22 unsupported conjecture rather than evidence to deny bond rendered the decision
23 arbitrary, capricious, and constitutionally deficient. Accordingly, the denial of release
24 at the February 27, 2026, hearing violated Petitioner's Fifth Amendment right to due
25 process and underscores the urgent need for this Court's intervention to remedy
26 Petitioner's unlawful detention.
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1 11. On or about February 6, 2026, Petitioner’s husband was granted bond and
2 released from custody. Petitioner’s husband presented materially identical facts,
3 further underscoring the arbitrary nature of the government’s continued detention of
4 Petitioner.

5 12. Petitioner has a protected liberty interest in remaining out of custody. As
6 Petitioner has a protected liberty interest, the Due Process Clause requires procedural
7 protections before she can be deprived of that interest. Government’s revocation of
8 Petitioner’s admission without notification, reasoning, or an opportunity to heard,
9 denied Petitioner of her due process rights.

10 13. The risk of an erroneous deprivation of such interest is high as Petitioner’s
11 admission to the United States without providing a reason for revocation or giving
12 him an opportunity to be heard. Since DHS’s initial determination that Petitioner was
13 admitted to the United States because she posed no danger to the community and was
14 not a flight risk, there is no evidence that this have been changed. She has a fixed
15 address where she'll live with her family and friends. Petitioner's continued detention
16 is arbitrary and unlawful, and she requests that this Court order her immediate
17 release from ICE custody.

18 **JURISDICTION**

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21 14. As the Court has an obligation “to determine that [it has] jurisdiction before
22 proceeding to the merits” of any case, it will first address Respondents’ jurisdictional
23 argument. *Lance v. Coffman*, 549 U.S. 437, 439 (2007); *see Steel Co. v. Citizens for a*
24 *Better Env't*, 523 U.S. 83, 94-95 (1998). For the reasons set forth below, the court
25 finds that it has jurisdiction over Petitioner’s claims.

26 15. This action arises under the Constitution of the United States and the
27 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
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1 16. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
2 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United
3 States Constitution (Suspension Clause).

4 17. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
5 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All-Writs
6 Act, 28 U.S.C. § 1651.

7 18. Federal District courts have jurisdiction to hear habeas claims by non-citizens
8 challenging the lawfulness of their detention. *Zadvydas*, 533 U.S. at 687.

9 19. Federal courts also have federal question jurisdiction, through the
10 Administrative Procedure Act ("APA"), to deem unlawful and to set aside agency
11 action that is arbitrary, capricious, an abuse of discretion or otherwise inconsistent
12 with law. 5 U.S.C. §706(2)(A). APA claims are cognizable on habeas. 5 U.S.C.
13 §703, which provides that judicial review of agency action under the APA may be
14 proceeded by any applicable form of legal action, including but not limited to habeas
15 corpus. The APA affords a right of review to a person who is adversely affected or
16 harmed by agency action.

17
18 **VENUE**

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20 20. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3)
21 and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district
22 a Caroline Detention Facility. Furthermore, a substantial part of the events or
23 omissions giving rise to this action occurred and continue to occur at ICE's
24 Washington Field Office in Chantilly, Virginia, within this division. No real property
25 is involved in this action. 28 U.S.C. §1391(e).

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1 petitioner bears the burden of demonstrating that "[h]e is in custody in violation of the
2 Constitution or laws or treaties of the United States." Id. § 2241(c)(3).

3 25. The Court has an obligation "to determine that [it has] jurisdiction before
4 proceeding to the merits" of any case, it will first address Respondents' jurisdictional
5 argument. *Lance v. Coffman*, 549 U.S. 437, 439 (2007); see *Steel Co. v. Citizens for a*
6 *Better Env't*, 523 U.S. 83, 94-95 (1998). For the reasons set forth below, the Court finds
7 that it has jurisdiction over Petitioner's claims.

8 26. ICE's long-standing policy is to release non-citizens immediately following a
9 grant of asylum, relief absent exceptional circumstances.

10 27. Under the *Accardi* doctrine, which originated in the context of an immigration
11 case and has been developed through subsequent immigration caselaw, agencies are
12 bound to follow their own rules that affect the fundamental rights of individuals, even
13 self-imposed policies and processes that limit otherwise discretionary decisions. See
14 *Accardi v. Shaughnessy*, 347 U.S. at 226 (holding that BIA must follow its own
15 regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974)
16 ("Where the rights of individuals are affected, it is incumbent upon agencies to follow
17 their own procedures . . . even where the internal procedures are possibly more
18 rigorous than otherwise would be required.").

19 28. The requirement that an agency follow its own policies is not "limited to rules
20 attaining the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167 (2d
21 Cir. 1991). Even an unpublished policy binds the agency if "an examination of the
22 provision's language, its context, and any available extrinsic evidence" supports the
23 conclusion that it is "mandatory rather than merely precatory." *Doe v. Hampton*, 566
24 F.2d 265, 281 (D.C. Cir. 1977); see also *Morton*, 415 U.S. at 235-36 (applying *Accardi*
25 to violation of internal agency manual); *U.S. v. Heffner*, 420 F.2d 809, 813 (4th Cir.
26 1969) ("Nor does it matter that these IRS instructions to Special Agents were not
27 promulgated in something formally labeled a 'Regulation'").
28



1 29. When agencies fail to adhere to their own policies as required by Accardi, courts
2 typically frame the violation as arbitrary, capricious, and contrary to law under the
3 APA, see *Damus v. Nielson*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) ("It is clear,
4 moreover, that [Accardi] claims may arise under the APA"), or as a due process
5 violation, see *Sameena, Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th
6 Cir. 1998) ("An agency's failure to follow its own regulations tends to cause unjust
7 discrimination and deny adequate notice and consequently may result in a violation
8 of an individual's constitutional right to due process.") (internal quotations omitted).

9 30. Prejudice is generally presumed when an agency violates its own policy. See
10 *Montilla*, 926 F.2d at 167 ("We hold that an alien claiming the INS has failed to
11 adhere to its own regulations . . . is not required to make a showing of prejudice before
12 she is entitled to relief. All that need be shown is that the subject regulations were for
13 the alien's benefit and that the INS failed to adhere to them."); *Heffner*, 420 F.2d at
14 813 ("The Accardi doctrine furthermore requires reversal irrespective of whether a
15 new trial will produce the same verdict.")

16 31. To remedy an Accardi violation, a court may direct the agency to properly apply
17 its policy, see *Damus*, 313 F. Supp. 3d at 343 ("[T]his Court is simply ordering that
18 Defendants do what they already admit is required."), or a court may apply the policy
19 itself and order relief consistent with the policy. See *Jimenez v. Cronen*, 317 F. Supp.
20 3d 626, 657 (D. Mass. 2018) (scheduling bail hearing to review petitioners' custody
21 under ICE's standards because "it would be particularly unfair to require that
22 petitioners remain detained . . . while ICE attempts to remedy its failure").

23 32. "[T]he touchstone of 'arbitrary and capricious' review under the APA is
24 'reasoned decision-making.'" *Altera Corp. & Subsidiaries v. Comm'r*, 926 F.3d 1061,
25 1080 (9th Cir. 2019) (quoting *State Farm*, 463 U.S. at 52). "[A]n agency's action can
26 only survive arbitrary or capricious review where it has articulated a satisfactory
27 explanation for its action including a rational connection between the facts found and
28



1 the choice made.” *Alliance for the Wild Rockies v. Petrick*, 68 F.4th 475, 493 (9th Cir.
2 2023) (cleaned up). Humanitarian parole is granted “on a case-by-case basis for urgent
3 humanitarian reasons or significant public benefit,” and the statute states that “when
4 the purposes of such parole shall, in the opinion of the Secretary of Homeland Security,
5 have been served the [noncitizen] shall forthwith return or be returned to the custody
6 from which she was paroled.” 8 U.S.C. § 1182(d)(5)(A). Therefore, pursuant to statute,
7 “revocation should only occur when (1) the parole’s purpose is served or (2) when
8 humanitarian reasons and public benefit are no longer warranted, *and* the noncitizen is
9 provided written notice.” *Noori*, 2025 WL 2800149, at *13 (citing *Y-Z-L-H v. Bostock*,
10 --- F. Supp. 3d ---, 2025 WL 1898025, at *12–13 (D. Or. July 9, 2025)) (emphasis in
11 original).

12 33. Here, Petitioner falls into this category where ICE has failed to act as required
13 by their procedures and require intervention.

14
15 **CLAIMS FOR RELIEF**

16 **GROUND ONE**

17 **VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE**
18 **PROCESS**

19 **Petitioner has the right to challenge the legality of her detention**

20 29. The allegations in the above paragraphs are realleged and incorporated herein.

21 30. Petitioner has due process rights to challenge their detention. *Zadvydas v. Davis*,
22 533 U.S. 678, 693, 695 (2001) (while noncitizens outside the United States’
23 “geographic borders” lack constitutional protections, all “persons” within them are
24 protected by the Due Process Clause, regardless of immigration status); *Rodriguez*
25 *Diaz v. Garland*, 53 F.4th 1189, 1205-06 (9th Cir. 2022) (though constitutional rights
26 of citizens and noncitizens “are not coextensive,” noncitizens are entitled to due
27 process, including to challenge detention pending proceedings).

28 31. As the Ninth Circuit held, the Due Process Clause applies to noncitizens



1 regardless of whether they are “seeking admission” or are “admitted” under
2 immigration law. *Wong v. United States*, 373 F.3d 952, 973 (9th Cir. 2004),
3 abrogated on other grounds by *Wilkie v. Robbins*, 551 U.S. 537 (2007); see also
4 *Padilla v. U.S. Immigr. & Customs Enft*, 704 F. Supp. 3d 1163, 1171 (W.D. Wash.
5 2023). The Due Process Clause allows Petitioner to challenge her detention.

6 32. Petitioner challenges her deprivation of liberty and detention, not the adequacy
7 of the procedures the immigration laws afford her “with respect to admission.
8 Petitioner solely challenging her detention and revocation of parole without proper
9 notice, and she is not bringing a constitutional claim with respect to the procedures
10 governing her legal admission into the United States.

11 33. To the extent Respondent takes the extraordinary position that Petitioner has no
12 due process rights at all, that is unsupported by law and would have gruesome
13 practical consequences: “If excludable [noncitizens] were not protected by even the
14 substantive component of constitutional due process, ... we do not see why the United
15 States government could not torture or summarily execute them. ... [W]e conclude
16 that government treatment of excludable [noncitizens] must implicate the Due
17 Process Clause of the Fifth Amendment.”. *Rosales-Garcia v. Holland*, 322 F.3d 386,
18 412 (6th Cir. 2003) (en banc); see also *Jean v. Nelson*, 472 U.S. 846, 874 (1985)
19 (Marshall, J., dissenting) (“[T]he principle that unadmitted [noncitizens] have no
20 constitutionally protected rights defies rationality. Under this view, the Attorney
21 General, for example, could invoke legitimate immigration goals to justify a decision
22 to stop feeding all detained [noncitizens] Surely, we would not condone mass
23 starvation.”). Thus, there is no question that Petitioner has the right to challenge the
24 constitutionality of her prolonged detention under the Due Process Clause of the Fifth
25 Amendment of the Constitution.
26

27 34. The relief Petitioner is entitled to is not limited to a bond hearing; Petitioner has
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1 a protected liberty interest in remaining out of custody *See, e.g., Pinchi*, 2025 WL
2 2084921, at *4 (“[Petitioner’s] release from ICE custody after her initial
3 apprehension reflected a determination by the government that she was neither a
4 flight risk or a danger to the community, and [Petitioner] has a strong interest in
5 remaining at liberty unless she no longer meets those criteria.”); *Noori*, 2025 WL
6 2800149, at *10 (“Petitioner is not an “arriving” noncitizen but one that has [been]
7 present in our country over a year. Her substantial amount of time indicates she is
8 afforded the Fifth Amendment’s guaranteed due process before removal.”); *Matute*
9 *v. Wofford*, No. 25-cv-1206-KES-SKO (HC), 2025 WL 2817795, at *5 (E.D. Cal.
10 Oct. 3, 2025) (finding petitioner had a protected liberty interest in her release).

11 35. This Court accordingly found constitutional limits to apply to immigration
12 detention, irrespective of the underlying detention authority. *See, e.g., Karakhanyan*
13 *v. Warden of Otay Mesa Detention Center*-3:25-cv-03454-JO-MMP; *Romik*
14 *Parunakyan v. Warden of Otay Mesa Detention Center* 25-cv-3739-LL-MSB; *L.S. v.*
15 *Warden of Otay Mesa Detention Center*; *M.F. v. Warden of Otay Mesa Detention*
16 *Center* 3:25-cv-3599-CAB-MSB, *Vikas Kumar v. Christopher Larose, Warden, Otay*
17 *Mesa Detention Center et al.*, 25-CV-3796 JLS (DDL); *Aigul Kazybayeva v.*
18 *Warden, Otay Mesa Detention Center* 3:26-cv-00421-GPC-MMP; *Dariya*
19 *Karmamoldoyeva v. Warden, Otay Mesa Detention Center* 3:26-cv-00423-GPC-
20 *MSB*; *Federico Navarro Perez v. Warden, Otay Mesa Detention Center* 3:25-cv-
21 *02620-RBM-JLB*; *Gonzalez Salazar v. Casey*, Case No.: 25-CV-2784 JLS (VET),
22 2025 WL 3063629, at *4 (S.D. Cal. Nov. 3, 2025); *Singh v. Andrews*, No. 1:25-cv-
23 *00801-KES-SKO (HC)*, 2025 WL 1918679, at *7 (E.D. Cal. July 11, 2025).

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25 36. Likewise, relief was granted in similar matter. *See Doe v. Becerra*, 787 F. Supp.
26 3d 1083, 1089 (E.D. Cal. 2025); *Duong v. Kaiser*, --- F. Supp. 3d ---, 2025 WL
27 2689266, at *7–10 (N.D. Cal. 2025); *Pinchi*, 2025 WL 2084921, at *5; *Gonzalez*
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1 *Salazar*, 2025 WL 3063629, at *6; *Abdul Kadir v. Larose*, Case No.: 25cv1045-LL-
2 MMP, 2025 WL 2932654, at *6 (S.D. Cal. Oct. 15, 2025); *Matute v. Wofford*, No.
3 1:25-cv-01206-KES-SKO (HC), 2025 WL 2495767, at *8 (E.D. Cal. Oct. 3, 2025).

4 37. ICE has violated Petitioner's due process rights by denying her an
5 individualized custody review to which she is entitled under ICE policy.

6 38. As a remedy, this Court should conduct its own review of Petitioner's custody
7 or, at least, order ICE to review Petitioner's custody under the standard articulated
8 in ICE policy.

9 **GROUND TWO**

10 **VIOLATION OF IMMIGRATION AND NATIONALITY 8 U.S.C. §**
11 **1231 (A)(6)**

12 **Mandatory detention is subject to constitutional limits**

13 39. The allegations in the above paragraphs are realleged and incorporated herein.

14 40. "Freedom from imprisonment-from government custody, detention, or other
15 forms of physical restraint-lies at the heart of liberty [Due Process Clause] protects."
16 *Zadvydas*, 533 U.S. at 690.

17 41. Petitioner has an interest in remaining with her community, working and
18 continuing the process of seeking asylum. See *Morrissey*, 408 U.S. 471 at 482
19 ("Subject to the conditions of her parole, she can be gainfully employed and is free to
20 be with family and friends and to form the other enduring attachment of normal life.")

21 42. The risk of an erroneous deprivation of such interest is high as Petitioner's bond
22 request was denied. Since DHS's initial determination that Petitioner should be
23 admitted because she posed no danger to the community and was not at flight risk,
24 there is no evidence that these findings have changes. See *Saravia v. Sessions*, 280 F.
25 Supp. 3d 1168, 1760 (N.D. Cal2017).

26 43. Petitioner has no criminal record, has not been arrested or otherwise in criminal
27 trouble, had work authorization. "Once a noncitizen has been released, the law
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1 prohibits federal agents from rearresting her merely because she is subject to removal
2 proceedings.” Saravia, 280 F. Supp. 2d at 1760. “Rather, the federal agents must be
3 able to present evidence of materially changed circumstances-namely, evidence that
4 the noncitizen is in fact dangerous or has become a flight risk..” *Id.*

5 44. Government’s interest in detaining Petitioner without notice, reasoning, and a
6 hearing is “low.” *See Pinchi*, 2025 WL 2084921, at *5; *Matute*, 2025 WL 2817795, at
7 *6; *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019) (“If the
8 government wishes to re-arrest [Petitioner] at any point, it has the power to take steps
9 toward doing so; but its interest in doing so without a hearing is low.”). Respondents
10 fail to point to any burdens on the government if it were to have provided proper notice,
11 reasoning, and a pre-deprivation hearing.

12 45. Therefore, because Respondents detained Petitioner by revoking her parole in
13 violation of the Due Process Clause, her detention is unlawful. *See, e.g., Alegria Palma*
14 *v. Larose et al.*, No. 25-cv-1942 BJC (MMP), slip op. at 14 (S.D. Cal. Aug. 11, 2025)
15 (granting a TRO based on a procedural due process challenge to a revocation of parole
16 without a pre-deprivation hearing); *Navarro Sanchez*, 2025 WL 2770629, at *5
17 (granting a writ of habeas corpus releasing petitioner from custody to the conditions of
18 her preexisting parole on due process grounds).¹

19 46. Petitioner’s admission revocation without notification, reasoning, or an
20 opportunity to be heard, denied Petitioner of her due process rights. Therefore, her
21 continued detention violates 8 U.S.C. § 1231(a)(6), and she must be immediately
22 released.
23

24 47. Furthermore, Petitioner is challenging her detention on constitutional grounds,
25 not statutory grounds. Notwithstanding the fact that she is being detained pursuant to
26 section 1225(b), Petitioner’s detention is unequivocally subject to Constitutional
27 limits. The Supreme Court has not precluded noncitizens from bringing as-applied
28



1 constitutional challenges to their mandatory detention. Respondent correctly states:
2 Jennings v. Rodriguez, 583 U.S. 281 (2018) “did not explicitly address
3 constitutionality arguments.” U.S. Likewise, While in Demore v. Kim, 538 U.S. 510
4 (2003) the Supreme Court rejected a facial challenge to mandatory detention under §
5 1226(c), the Supreme Court has explicitly recognized the availability of judicial review
6 over as-applied challenges to detention, including mandatory detention. See, e.g.,
7 Nielsen v. Preap, 586 U.S. 392, 420 (2019); Demore v. Kim, 538 U.S. 510, 532-33
8 (2003) (Kennedy, J., concurring). This Court accordingly found constitutional limits
9 to apply to immigration detention, irrespective of the underlying detention authority.
10 See, e.g., Vikas Kumar v. Christopher Larose, Warden, Otay Mesa Detention Center
11 et al., 25-CV-3796 JLS (DDL); Aigul Kazybayeva v. Warden, Otay Mesa Detention
12 Center 3:26-cv-00421-GPC-MMP; Dariya Karmamoldoyeva v. Warden, Otay Mesa
13 Detention Center 3:26-cv-00423-GPC-MSB; Federico Navarro Perez v. Warden, Otay
14 Mesa Detention Center 3:25-cv-02620-RBM-JLB; *Gonzalez Salazar v. Casey*, Case
15 No.: 25-CV-2784 JLS (VET), 2025 WL 3063629, at *4 (S.D. Cal. Nov. 3, 2025); *Singh*
16 *v. Andrews*, No. 1:25-cv-00801-KES-SKO (HC), 2025 WL 1918679, at *7 (E.D. Cal.
17 July 11, 2025). (granting a writ of habeas corpus releasing petitioner from custody
18 to the conditions of h preexisting parole on due process grounds).

19
20 48. This Court should so hold as well.

21
22 **GROUND THREE**

23 **ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE**
24 **ADMINISTRATIVE PROCEDURE ACT**

25 **Petitioner’s ongoing and unreviewed detention violates her constitutional due**
26 **process rights and cannot continue without a bond hearing**

27 49. The allegations in the above paragraphs are realleged and incorporated herein.
28 Courts must "hold unlawful and set aside agency action" that is "arbitrary, capricious,



1 an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. §
2 706(2)(A).

3 50. The Ninth Circuit in Singh stressed that "it is improper to ask the individual to
4 share equally with society the risk of error when the possible injury to the individual—
5 deprivation of liberty— is so significant[.]" See Singh, 638 F. 3d at 1205; Black, 103
6 F.4th at 157-58 (observing that where "an individual's liberty is at stake, the Supreme
7 Court has consistently used [clear and convincing] evidentiary standard for continued
8 detention") (internal citations omitted); id. at 159 (reiterating that the government bears
9 the burden of meeting this standard even where an individual is detained pursuant to
10 mandatory detention). This Court should, too, apply the heavy burden on the
11 government to justify Petitioner's continued civil detention without a bond hearing.

12 51. Moreover, at the evidentiary hearing, the adjudicator must consider alternatives
13 to detention and Petitioner's financial circumstances in determining whether further
14 detention is warranted and the conditions of her release. See, e.g., Hernandez, 872 F.3d
15 at 994 ("If the government is setting monetary bonds to ensure appearance at future
16 proceedings, there is no legitimate reason for it not to consider the individual's
17 financial circumstances and alternative conditions of release.").

18 52. Thus, due process and Ninth Circuit precedent require that the government bear
19 the burden of justifying Petitioner's ongoing detention by clear and convincing
20 evidence.
21

22 **PRAYER FOR RELIEF**

23 Wherefore, Petitioner respectfully requests this Court to grant the following:

- 24 a) Assume jurisdiction over this matter;
25 b) Issue an Order to Show Cause ordering Respondents to show
26 cause why this Petition should not be granted within three
27 days.
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- c) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. §1231(a)(6);
- d) Issue a Writ of Habeas Corpus ordering Respondents to be released;
- e) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- f) Grant any further relief this Court deems just and proper

DATED: March 3, 2026

Respectfully submitted



Naira Zohrabyan
Attorney for Petitioner

