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4
5 **THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

6 Pardeep Kumar
7 *Petitioner*

8 v.

9 Warden, Eloy Federal Contract Facility, AZ,
in his official capacity,
10 Field Office Director, Phoenix Field Office,
U.S. Immigration and Customs Enforcement,
in his official capacity;
11 Todd M. Lyons, Acting Director of U.S.
Immigration and Customs Enforcement, in
12 his official capacity
Pamela Bondi, U.S. Attorney General, in her
13 official capacity.

14 *Respondents*

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

INTRODUCTION

1. Petitioner Pardeep Kumar (“Petitioner”) seeks a writ of habeas corpus because he is currently detained at the Eloy Federal Contract Facility (CoreCivic) in Eloy, Arizona by the Department of Homeland Security (“DHS”) in violation of the Due Process Clause of the Fifth Amendment.
2. This habeas petition challenges only the lawfulness of Petitioner’s present physical detention. Petitioner does not seek review of the merits of his removal proceedings or the underlying charge of inadmissibility.
3. Petitioner entered the United States without inspection on March 26, 2023. He was subsequently detained by Immigration and Customs Enforcement (“ICE”) after he effectuated entry for processing, including background and security checks, which confirmed that he had no criminal history. On March 29, 2023, DHS placed him in removal proceedings under Immigration and Nationality Act (“INA”) § 240 through the issuance of a Notice to Appear (“NTA”), alleging that Petitioner was present in the United States without being admitted or paroled pursuant to INA § 212(a)(6)(A)(I).
4. On April 18, 2023, DHS released Petitioner on his own recognizance after determining that he was neither a flight risk nor a danger to the community.
5. Petitioner was issued a second NTA on December 15, 2025, which mirrors the initial NTA and includes an additional charge under INA § 212(a)(7)(A)(i)(I).
6. On December 9, 2025, Petitioner, while working, was pulled over by a highway patrol officer who indicated there was an issue with his mud flap. The officer subsequently notified ICE agents, who came to the scene and asked Petitioner for proof of his legal

1 status. Upon realizing that Petitioner was an asylum seeker with a pending asylum
2 application, ICE agents took Petitioner into custody.

3 7. Petitioner's re detention and continued confinement violate the Due Process Clause of
4 the Fifth Amendment. The revocation of his Order of Supervision ("OSUP") without
5 notice or a pre deprivation hearing violated Petitioner's constitutionally protected liberty
6 interest.

7 8. Prior to his re detention, Petitioner lived in the community for more than two and a half
8 years. During that time he complied with all conditions of release, appeared at all
9 immigration court hearings and ICE check ins, timely filed his asylum application,
10 obtained employment authorization, maintained gainful employment, and did not incur
11 any criminal charges or violate the laws of the United States.

12 9. Despite this full compliance, Petitioner was re detained and has remained in custody,
13 reflecting detention maintained without individualized justification.

14 10. Petitioner therefore seeks a writ of habeas corpus because his continued detention
15 violates the Due Process Clause and applicable provisions of the Immigration and
16 Nationality Act.

17 JURISDICTION

18 11. This Court has jurisdiction under 28 U.S.C. §§ 2241(c)(3) and 1331 because Petitioner is
19 in federal custody and challenges the legality of his present physical detention. As the
20 Supreme Court explained, "the essence of habeas corpus is an attack by a person in
21 custody upon the legality of that custody, and the traditional function of the writ is to
22 secure release from illegal custody." Preiser v. Rodriguez, 411 U.S. 475, 484 (1973).

12. Federal courts retain habeas jurisdiction to review immigration detention imposed without statutory authority or in violation of the Constitution. Zadvydas v. Davis, 533 U.S. 678, 687 (2001). Habeas jurisdiction remains available unless Congress clearly eliminates it. INS v. St. Cyr, 533 U.S. 289, 298–314 (2001).
13. Jurisdiction is proper because Petitioner challenges only his present detention, not any final order of removal. Nadarajah v. Gonzales, 443 F.3d 1069, 1075–1080 (9th Cir. 2006). Petitioner is detained in Eloy, Arizona within this District, and his custodian is subject to this Court’s authority. Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493–500 (1973).
14. The Court may grant habeas relief and issue temporary orders preserving the status quo while this petition is pending. Nken v. Holder, 556 U.S. 418, 426–27 (2009); 28 U.S.C. § 1651(a).

VENUE

15. Venue is proper in this Court under 28 U.S.C. §§ 2241(a) and 1391(e) because Petitioner is detained within the District of Arizona at the Eloy Federal Contract Facility in Eloy, Arizona, and Respondents exercise custody and control over him within this District.
16. Venue is proper where the petitioner is confined and where the custodian is subject to the court’s jurisdiction. Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493 to 500 (1973). Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are federal officers acting in their official capacities and a substantial part of the events giving rise to Petitioner’s detention occurred within this District.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for a writ of habeas corpus or order Respondents to show cause “forthwith,” unless it appears from the petition that the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” Id.
18. Habeas corpus is “perhaps the most important writ known to the constitutional law ... affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” Fay v. Noia, 372 U.S. 391, 400 (1963).
19. The Ninth Circuit has emphasized that detention based habeas petitions require prompt judicial attention because they involve an ongoing deprivation of physical liberty. “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” Yong v. INS, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

20. Petitioner Pardeep Kumar is a native and citizen of India who is currently detained by the Department of Homeland Security at the Eloy Federal Contract Facility in Eloy, Arizona.
21. Respondent Warden, Eloy Federal Contract Facility, Arizona, is Petitioner’s immediate physical custodian and is sued in his official capacity. Rumsfeld v. Padilla, 542 U.S. 426, 434 to 435 (2004).
22. Respondent Field Office Director, Phoenix Field Office, U.S. Immigration and Customs Enforcement, is responsible for immigration detention decisions within the region,

1 including Petitioner's detention. He is sued in his official capacity.

2 23. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs
3 Enforcement and is responsible for national detention policies and practices governing
4 the detention of noncitizens. He is sued in his official capacity.

5 24. Respondent Kristi Noem is the Secretary of the United States Department of Homeland
6 Security, the federal agency charged with administering and enforcing the Immigration
7 and Nationality Act. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. She is sued in her official
8 capacity.

9 25. Respondent Pam Bondi is the Attorney General of the United States and oversees the
10 Executive Office for Immigration Review, which conducts removal proceedings under
11 the Immigration and Nationality Act. She is sued in her official capacity.

12 26. Each Respondent is sued solely in his or her official capacity for actions taken under
13 color of federal law in maintaining Petitioner's detention.

14 **STATEMENT OF FACTS**

15 27. Petitioner Pardeep Kumar is a native and citizen of India. On March 26, 2023, Petitioner
16 entered the United States without inspection seeking asylum. He was detained by U.S.
17 Border Patrol agents and taken into custody. Immigration and Customs Enforcement
18 ("ICE") conducted background checks and confirmed that Petitioner had no criminal
19 history, wants, or warrants and was not a threat to national security.

20 28. On March 29, 2023, the Department of Homeland Security initiated removal proceedings
21 against Petitioner under INA § 240 through the issuance of a Notice to Appear ("NTA"),
22 alleging that Petitioner was present in the United States without being admitted or

1 paroled pursuant to INA § 212(a)(6)(A)(I).

2 29. On April 18, 2023, ICE released Petitioner on his own recognizance after determining
3 that he was neither a flight risk nor a danger to the community.

4 30. After his release, Petitioner filed a Form I-589 application for asylum, withholding of
5 removal, and protection under the Convention Against Torture. He obtained employment
6 authorization, secured a commercial driver's license, and worked as a commercial truck
7 driver. During this period, Petitioner appeared at all immigration court hearings and ICE
8 check ins and did not violate the laws of the United States.

9 31. On December 9, 2025, while working as a commercial truck driver, Petitioner was pulled
10 over by a highway patrol officer who indicated there was an issue with his mud flap. The
11 officer notified ICE agents, who came to the scene and asked Petitioner for proof of his
12 legal status. Upon learning that Petitioner was an asylum seeker with a pending asylum
13 application, ICE agents took him into custody.

14 32. Petitioner was not provided notice or a hearing before being taken into custody, and he
15 had not violated the terms of his release. Respondents revoked his Order of Supervision
16 and placed him in immigration detention.

17 33. Petitioner was transported to the Eloy Federal Contract Facility in Eloy, Arizona, where
18 he has remained detained without bond since December 9, 2025.

19 34. Prior to his re detention, Petitioner lived in the community for more than two and a half
20 years. During that time he complied with all conditions of release, appeared at all
21 immigration court hearings and ICE check ins, timely filed his asylum application,
22 obtained lawful employment authorization, maintained gainful employment, and did not

1 incur any criminal charges or violate the laws of the United States.

2 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

3 35. No statutory exhaustion requirement applies to habeas claims challenging the legality of
4 present immigration detention under 28 U.S.C. § 2241. Jennings v. Rodriguez, 583 U.S.
5 281, 292 to 295 (2018).

6 36. Petitioner challenges only the legality of his present detention, not any final order of
7 removal. Such claims fall within the traditional scope of habeas corpus. Nadarajah v.
8 Gonzales, 443 F.3d 1069, 1075 to 1080 (9th Cir. 2006).

9 37. Courts may excuse exhaustion where administrative remedies are unavailable,
10 inadequate, or futile. McCarthy v. Madigan, 503 U.S. 140, 144 to 145 (1992). Here,
11 Immigration judges and the Board of Immigration Appeals lack jurisdiction to adjudicate
12 constitutional challenges to detention or grant habeas relief.

13 38. Because the agency cannot provide the relief sought, exhaustion would be futile and is
14 not required. Accordingly, exhaustion is neither required nor appropriate, and this Court
15 may adjudicate Petitioner's claims under 28 U.S.C. § 2241.

16 **LEGAL FRAMEWORK**

17 **DHS's Revocation of Petitioner's OSUP and**

18 **Re-Detention Violates the Fifth Amendment Due Process Clause**

19 39. DHS violated the Fifth Amendment when it revoked Petitioner's liberty under his Order
20 of Supervision ("OSUP") and re-detained him without notice or a pre-deprivation
21 hearing. This re-detention violates both substantive and procedural due process.

22 40. The Fifth Amendment provides that no person shall be "deprived of life, liberty, or

property, without due process of law.” U.S. Const. amend. V.

41. It is firmly established that these protections extend to noncitizens present in the United States. See Trump v. J.G.G., 145 S. Ct. 1003, 1006 (2025) (per curiam) (“It is well established that the Fifth Amendment entitles aliens to due process of law”); Reno v. Flores, 507 U.S. 292, 306 (1993); Zadvydas v. Davis, 533 U.S. 678, 693 (2001) (“the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent”); Wong Wing v. United States, 163 U.S. 228, 238 (1896).

42. The liberty protected by the Due Process Clause includes freedom from physical restraint. As the Supreme Court explained, “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.

43. The Supreme Court has further made clear that civil detention is constitutional only when it serves a legitimate regulatory purpose and is accompanied by adequate procedural protections. Outside the criminal context, civil confinement has been permitted only in limited, nonpunitive settings supported by a sufficiently strong justification to outweigh the individual’s liberty interest. See United States v. Salerno, 481 U.S. 739 (1987); Foucha v. Louisiana, 504 U.S. 71, 80 (1992); Kansas v. Hendricks, 521 U.S. 346, 356 (1997).

44. These principles apply directly here. DHS revoked Petitioner’s previously granted liberty under his OSUP even though Petitioner had lived in the community for more than two and a half years while complying with all conditions of release. During that time he

1 appeared at immigration court hearings and ICE check-ins, maintained employment, and
2 incurred no criminal charges.

3 45. Courts evaluating due process claims apply a two-step inquiry. First, the Court
4 determines whether a protected liberty interest exists. Second, the Court determines what
5 procedures are required before that liberty may be taken away. Garcia v. Andrews, No.
6 2:25-cv-01884 TLN SCR, 2025 WL 1927596, at *2 (E.D. Cal. July 14, 2025).

7 **1. Petitioner Possesses a Protected Liberty Interest**

8 46. A protected liberty interest may arise when the government grants conditional freedom
9 from physical restraint. Young v. Harper, 520 U.S. 143, 147–49 (1997).

10 47. In Morrissey v. Brewer, 408 U.S. 471, 482 (1972), the Supreme Court explained that
11 parole “enables [the parolee] to do a wide range of things open to persons” who are not
12 confined, including living at home, working, and maintaining family and community ties.
13 Although subject to supervision, the parolee’s condition “is very different from that of
14 confinement in a prison.” Id. Release carries “at least an implicit promise that parole will
15 be revoked only if [the individual] fails to live up to the parole conditions,” and
16 revocation “inflicts a grievous loss.” Id.

17 48. These principles apply here. DHS released Petitioner after determining that he posed
18 neither a danger nor a flight risk. Petitioner then lived in the community for more than
19 two and a half years while complying with all conditions of supervision. During that
20 time, he appeared at ICE check-ins and immigration court hearings, pursued his
21 immigration case, obtained work authorization, and maintained lawful employment. He
22 incurred no criminal charges and did not violate any condition of his release.

- 1 49. Petitioner's release therefore created the same type of conditional liberty recognized in
2 Morrissey and carried the same "implicit promise" that his liberty would not be revoked
3 absent a violation of release conditions. Petitioner did not violate those conditions and
4 did not commit any crime. Nevertheless, DHS revoked his liberty and re-detained him.
- 5 50. This liberty interest is not defeated simply because the government initially exercised
6 discretion in granting release. Courts have held that "the fact that a decision-making
7 process involves discretion does not prevent an individual from having a protectable
8 liberty interest." Ortega v. Bonnar, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). See
9 Pinchi v. Noem, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025), holding that "even when
10 ICE has the initial discretion to detain or release a noncitizen pending removal
11 proceedings, after that individual is release from custody [he or] she has protected liberty
12 interest in remaining out of custody." See Meneses v. Santacruz, – F. Supp. 3d –, 2025
13 WL 3481771, *2-3 (C.D. Cal. Dec. 2, 2025).
- 14 51. Accordingly, Petitioner possesses a protected liberty interest in his continued release that
15 is protected by the Due Process Clause of the Fifth Amendment. The government
16 therefore may not revoke that liberty arbitrarily.

17 **A. Revocation of Petitioner's OSUP Violates Substantive Due Process**

- 18 52. Because Petitioner possessed a protected liberty interest under his Order of Supervision
19 ("OSUP"), DHS's revocation of Petitioner's OSUP and resulting re-detention must
20 satisfy the substantive limits the Due Process Clause places on civil immigration
21 detention.

- 22 53. Civil detention is constitutionally permissible only so long as it remains reasonably

1 related to a legitimate regulatory purpose. Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

2 In the immigration context, those purposes are ensuring appearance at proceedings and
3 protecting the community.

4 54. Therefore, when the government has previously determined that release under
5 supervision is sufficient, renewed detention must be supported by a concrete factual basis
6 tied to flight risk or danger to the community. See Saravia v. Sessions, 280 F. Supp. 3d
7 1168, 1197 (N.D. Cal. 2017) (examining whether changed circumstances justified
8 re-arrest following release); see also Carballo v. Andrews, 2025 WL 2381464, at *8
9 (E.D. Cal. Aug. 15, 2025).

10 55. Here, these principles apply directly. DHS previously determined that Petitioner could
11 safely remain in the community and released him under his OSUP. Petitioner then lived
12 at liberty for more than two and a half years while complying with all conditions of
13 supervision. During that time, he appeared at required ICE check-ins and immigration
14 court hearings, pursued his immigration case, obtained work authorization, and
15 maintained lawful employment. He was not arrested, charged, or convicted of any crime.

16 56. Although the Government has a legitimate interest in ensuring appearance at immigration
17 proceedings, that interest was already addressed through Petitioner's OSUP. After his
18 release, Petitioner appeared at all required ICE check-ins and immigration court hearings
19 while living at liberty in the community, and DHS identified no violation of the
20 conditions of supervision. Nevertheless, DHS revoked Petitioner's OSUP and re-detained
21 him without alleging that he had violated any condition of supervision or identifying any
22 materially changed circumstance that would alter its prior determination that supervision

1 was sufficient.

2 57. Under these circumstances, DHS's revocation of Petitioner's OSUP and renewed
3 detention are not reasonably related to any legitimate immigration purpose, such as
4 ensuring Petitioner's appearance at immigration proceedings or protecting the
5 community.

6 58. Because civil detention that is not reasonably related to a legitimate regulatory purpose
7 violates substantive due process, Petitioner's continued detention is unconstitutional.

8 **2. Petitioner's Re-Detention Violates the Fifth Amendment's**

9 **Procedural Due Process Protections**

10 59. Because Petitioner possessed a protected liberty interest in his continued release, the
11 Court must determine what process was constitutionally required before DHS could
12 revoke that liberty. See Garcia v. Andrews, No. 2:25-cv-01884 TLN SCR, 2025 WL
13 1927596, at *2 (E.D. Cal. July 14, 2025); see also T.M. v. Wofford, 2025 WL 2617255
14 (E.D. Cal. Sept. 9, 2025).

15 60. Separately and independently, Petitioner seeks immediate release because DHS violated
16 procedural due process under the Fifth Amendment when it withdrew previously
17 authorized liberty without notice and without a pre-deprivation hearing.

18 61. Procedural due process requires "the opportunity to be heard at a meaningful time and in
19 a meaningful manner." Mathews v. Eldridge, 424 U.S. 319, 333 (1976) (quoting
20 Armstrong v. Manzo, 380 U.S. 545, 552 (1965)). Under Mathews, courts balance (a) the
21 private interest affected, (b) the risk of erroneous deprivation under the procedures used
22 and the probable value of additional safeguards, and (c) the Government's interest. *Id.* at

335. In the immigration context, the analysis also accounts for the Government's enforcement interests. Rodriguez Diaz v. Garland, 53 F.4th 1189, 1206 (9th Cir. 2022).

62. Applying the Mathews factors here demonstrates that DHS was required to provide notice and a meaningful opportunity to be heard before revocation Petitioner's liberty under OSUP.

a. Private Interest

63. The first Mathews factor evaluates the private interest affected. Here, the interest at stake is Petitioner's freedom from physical confinement after more than two years of government-authorized liberty under his OSUP. Thus, his private interest is substantial. Since being allowed to remain in the United States on his own recognizance, Petitioner obtained employment and established community ties.

64. The Supreme Court has long recognized that freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. Zadvydas v. Davis, 533 U.S. 678, 690 (2001). The Supreme Court further explained the nature of that liberty in Morrissey v. Brewer, 408 U.S. 471, 482 (1972). There, the Court explained that parole "enables [the parolee] to do a wide range of things open to persons" who are not confined, including living at home, working, and maintaining family and community ties. Although subject to supervision, the parolee's condition "is very different from that of confinement in a prison." *Id.* Release carries "at least an implicit promise that parole will be revoked only if [the individual] fails to live up to the parole conditions," and revocation "inflicts a grievous loss." *Id.*

65. Similarly here, Petitioner's liberty under his OSUP functioned in the same way. After he

1 was released, Petitioner established his life in the community. He lived and worked while
2 remaining subject to supervision for over two and half years, just like the conditional
3 liberty described in Morrissey. When DHS revoked Petitioner's OSUP and re-detained
4 him, it terminated that conditional liberty. The revocation therefore inflicted the same
5 type of "grievous loss" recognized in Morrissey.

6 66. Because revocation of Petitioner's OSUP resulted in the loss of this substantial liberty
7 interest, the private interest affected under Mathews is significant. Accordingly, this
8 factor weighs heavily in Petitioner's favor.

9 b. Risk of Erroneous Deprivation and the Value of Additional Safeguards

10 67. The second Mathews factor evaluates the risk of erroneous deprivation when a
11 pre-deprivation hearing is not provided before re-detention.

12 68. Civil immigration detention is permissible only to address flight risk or danger to the
13 community. Petitioner's release after his initial detention was premised on DHS's
14 determination that he was neither a flight risk nor a danger to the community, because
15 ICE is generally not permitted to release detainees without first making such a
16 determination. See Pinchi, 792 F. Supp. 3d at 1024. ("As ICE was not authorized to
17 release Ms. Garro Pinchi if she was a danger to the community or a flight risk, the court
18 must infer from Ms. Garro Pinchi's release that ICE determined that she was neither.").

19 69. Here, the risk of erroneous deprivation was substantial. Nothing in the record suggests
20 that Petitioner is now a flight risk or a danger to the community. Petitioner has no
21 criminal history or convictions, and he appeared at all ICE check-ins and immigration
22 court hearings. Nevertheless, DHS re-detained Petitioner without advance notice and

1 without providing a pre-deprivation hearing, or even a prompt opportunity to challenge
2 the re-detention afterward. As a result, Petitioner was afforded no meaningful opportunity
3 to contest renewed custody.

4 70. This Court and others addressing immigration re-detention have recognized that
5 individuals released from custody possess a protected liberty interest that cannot be
6 revoked without due process. In Rocha Rosado v. Figueroa, No.
7 CV-25-02157-PHX-DLR (CDB), 2025 WL 3866847 (D. Ariz. Aug. 13, 2025), this court
8 held that individuals released from immigration custody are entitled to procedural
9 protections before the government may re-arrest and revoke that liberty. The court
10 explained that “this most basic American principle—that individuals placed at liberty are
11 entitled to process before the government reimprisons them—has particular meaning”
12 where detention had previously been determined to be unnecessary.

13 71. Other courts within this circuit have reached the same conclusion. See J.C.E.P. v.
14 Wofford, 2025 WL 3268273, at *6 (E.D. Cal. Nov. 24, 2025) (“numerous courts have
15 concluded that individuals like Petitioner... are entitled to a pre-deprivation hearing prior
16 to any rearrest or detention as a matter of due process”); Ramirez Clavijo v. Kaiser, 2025
17 WL 2419263, at *3 (N.D. Cal. Aug. 21, 2025); Singh v. Andrews, 2025 WL 1918679, at
18 *8 (E.D. Cal. July 11, 2025).

19 72. These authorities demonstrate that basic procedural safeguards—such as notice of the
20 basis for re-detention and an opportunity to challenge renewed custody before a neutral
21 decisionmaker—substantially reduce the risk of erroneous deprivation.

22 73. By contrast, the value of additional safeguards is evident. Written notice of the basis for

1 re-detention and a prompt neutral custody determination would have required DHS to
2 articulate specific reasons supporting renewed confinement and would have significantly
3 reduced the risk of arbitrary detention. These are routine procedural measures in custody
4 determinations and impose minimal administrative burdens relative to the liberty interest
5 at stake. See Pinchi (explaining that “the costs of providing such protections [are not]
6 fiscally or administratively onerous”). Accordingly, the second Mathews factor weighs
7 strongly in Petitioner’s favor.

8 74. Here, DHS provided none of these protections before revoking Petitioner’s liberty under
9 his OSUP. The risk of erroneous deprivation under the procedures used was therefore
10 substantial. Accordingly, this factor weighs strongly in Petitioner’s favor.

11 c. Government Interest

12 75. The final Mathews factor evaluates the Government’s interest, including the function
13 involved and the fiscal and administrative burdens that additional procedures would
14 entail. In Zadvydas, the Supreme Court explained that the Government has legitimate
15 interests in ensuring appearance at immigration proceedings and protecting the
16 community. However, the Ninth Circuit has also made clear that the Government has no
17 legitimate interest in detaining individuals who have already been determined not to be a
18 danger and whose appearance can reasonably be ensured through supervision. Hernandez
19 v. Sessions, 872 F.3d 976, 994 (9th Cir. 2017).

20 76. Here, DHS’s asserted interests are limited. DHS previously determined that supervision
21 under INA § 236(a) was sufficient to ensure Petitioner’s appearance. While released
22 under his OSUP, Petitioner attended all ICE check-ins and immigration court hearings

1 and fully complied with the conditions of his supervision. DHS has not identified any
2 violation of those conditions or any material change in circumstances that would justify
3 renewed detention. Courts have recognized that the Government's interest in detaining
4 individuals under these circumstances is low. See Fernandez, 2025 WL 2959319, at *9
5 (E.D. Cal. Oct. 17, 2025).

6 77. Furthermore, the public safety concerns are likewise absent. Petitioner has no criminal
7 history, was never arrested or charged while released, and DHS previously
8 determined—after conducting background and security screening—that he posed neither
9 a danger to the community nor a threat to public safety. Under these facts, the
10 Government's interest in summary re-detention without prior notice or an individualized
11 determination is minimal.

12 78. Under these circumstances, the Government's interest in summary re-detention without
13 notice or a prior determination is minimal. Nothing in the record suggests that Petitioner
14 now poses a flight risk or danger to the community. He incurred no criminal charges,
15 violated no laws of the United States, and fully complied with the conditions of his
16 OSUP while at liberty. Courts addressing similar circumstances have recognized that
17 re-arrest following release requires evidence of changed circumstances. See Saravia v.
18 Sessions, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017). DHS has not alleged any such
19 change here.

20 79. Moreover, Petitioner's immigration proceedings remain ongoing, and his detention may
21 continue while determinations regarding his asylum claim and removability are made and
22 potentially appealed. See Martinez v. Clark, 2019 WL 5968089, at *9 (W.D. Wash. May

23, 2019) (recognizing that detention may become prolonged while removal proceedings and related appeals remain pending). Given Petitioner's compliance while at liberty and the absence of any new concerns regarding flight risk or danger, the Government's interest in continued detention is minimal. Accordingly, this factor weighs in Petitioner's favor.

80. Therefore, balancing the Mathews factors, the Constitution required notice of the basis for re-detention and a meaningful opportunity to challenge renewed custody either before, or at least promptly after, Petitioner's liberty was revoked. The private interest at stake was substantial. The risk of erroneous deprivation under the procedures used was significant. By contrast, the Government's asserted interests were limited under the record. Yet Petitioner's liberty under his OSUP was revoked without constitutionally adequate procedural safeguards.

81. Accordingly, DHS's revocation of Petitioner's OSUP and his re-detention violated both substantive and procedural due process at its inception and continue to violate the Constitution each day he remains detained.

CONCLUSION

82. Respondents lack statutory authority to detain Petitioner under INA § 235(b) because DHS initially released him under INA § 236, 8 U.S.C. § 1226. Petitioner was placed in removal proceedings under INA § 240 on March 29, 2023, and his case remains ongoing. DHS then released Petitioner on his own recognizance in 2023 after determining that supervision was appropriate.

83. Petitioner thereafter lived at liberty for more than two and a half years and fully complied

1 with the conditions of his release under his OSUP. During that time, he timely filed for
2 asylum relief, worked, and violated no laws of the United States. Nevertheless, DHS
3 revoked his OSUP and re-detained him without notice or a meaningful opportunity to be
4 heard. Accordingly, DHS's revocation of Petitioner's OSUP and continued detention
5 violate both substantive and procedural due process. Immediate release is the appropriate
6 remedy.

7 84. For these reasons, Petitioner respectfully requests that the Court grant the writ and order
8 his immediate release from immigration custody.

9
10 **PRAYER FOR RELIEF**

11 85. WHEREFORE, Petitioner respectfully requests that this Court:

12 86. Grant the Petition for a Writ of Habeas Corpus;

13 87. Order Petitioner's immediate release from immigration custody as the appropriate
14 remedy for detention imposed in violation of the Fifth Amendment;

15 88. Enjoin Respondents from rearresting or re-detaining Petitioner absent lawful statutory
16 authority and compliance with applicable constitutional protections;

17 89. Enjoin Respondents and their agents from transferring Petitioner outside this District
18 while this petition is pending;

19 90. Enjoin Respondents from removing Petitioner from the United States during the
20 pendency of these habeas proceedings so as to preserve this Court's jurisdiction;

21 91. Award reasonable attorneys' fees and costs to the extent permitted by law; and

22 92. Grant such other and further relief as the Court deems just and proper.

23 PETITION WRIT OF HABEAS CORPUS - 20

1 Dated: March 9, 2026

Respectfully Submitted,

2 /s/ Mariana L. Hanna

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5
6
7 **VERIFICATION**

8 Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under the penalty of perjury
9 that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

10 Executed this March 9th day of January 2026.

11 /s/ Mariana L. Hanna

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