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8 *Attorney for Petitioner*

9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11 SAN DIEGO DIVISION

12 Moaz Adam

13 Petitioner,

14 v.

15 Gregory J. Archambeault, Field Office
16 Director, ICE Enforcement and Removal
17 Operations, San Diego Field Office,

18 Warden, Otay Mesa Detention Center.

19 Kristi Noem, Secretary of the United
20 States, Department of Homeland Security,

21 Todd M. Lyons, Acting Director
22 U.S. Immigration and Customs
23 Enforcement,

24 and

25 Pamela Bondi, U.S. Attorney
26 General Department of Justice

27 Respondents.
28

Case No: **'26CV1611 RBM DDL**

**PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT**

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3 **PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT**

4 1. The Petitioner, Moaz Adam (“Petitioner”), through undersigned counsel, requests issuance
5 of a Writ of Habeas Corpus and a Complaint seeking an order requiring Respondents to
6 immediately release Petitioner from unlawful immigration detention, or, in the alternative, to
7 provide a prompt individualized custody hearing before a neutral decision maker at which the
8 government bears the burden of proving that Petitioner’s continued detention is lawful, necessary,
9 and constitutionally permissible.

10 2. Petitioner, a citizen of Sudan, is not subject to a final order of removal. On February 3,
11 2024, Petitioner entered the United States without admission or inspection. He is currently in
12 removal proceedings, and has timely filed Form I-589, Application for Asylum with the
13 Immigration Court. Subsequently, Department of Homeland Security (“DHS”) issued Petitioner a
14 Notice to Appear (“NTA”) initiating removal proceedings. (Exhibit A).

15
16 3. Petitioner has no arrests, no convictions, and no criminal history. He maintained full-time
17 employment, complied with all immigration requirements, and demonstrated consistent good moral
18 character. Despite this, DHS detained Petitioner on December 2, 2025, and continues to detain him
19 without any individualized determination that his detention is necessary to ensure appearance or
20 prevent danger. Petitioner is currently suffering from a serious medical condition, and his health
21 continues to deteriorate without adequate medical evaluation or treatment while in detention.

22
23 4. Petitioner is not subject to mandatory detention under INA § 236(c) because he has no
24 criminal history and was not transferred from criminal custody. Petitioner poses no danger to the
25 community and has demonstrated his willingness to comply with all immigration requirements. His
26 detention does not further any legitimate governmental purpose.
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1 5. Each additional day of detention causes Petitioner irreparable harm, including loss of
2 liberty, emotional distress, and significant interference with his ability to pursue his asylum claim
3 and communicate with counsel.

4 **JURISDICTION AND VENUE**

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6 6. This Court has jurisdiction under 28 U.S.C. § 2241 (writ of habeas corpus) and 28 U.S.C.
7 § 1331 (federal question) because this action arises under the Administrative Procedure Act
8 (“APA”), 5 U.S.C. § 701 *et seq.*, and the United States Constitution. Because this suit seeks
9 relief other than money damages and challenges Defendants’ unlawful actions, the United States
10 has waived sovereign immunity from this suit under the APA. 5 U.S.C. § 702.

11
12 7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,
13 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

14 8. Venue is proper in the Southern District of California under 28 U.S.C. § 1391(e)(1)
15 because Petitioner is in the physical custody of ICE and in Otay Mesa Detention Center in this
16 judicial district; each Defendant is an agency of the United States or an officer of the United
17 States sued in their official capacity; and substantial part of the events giving rise to the claims in
18 this action took place in this District.

19
20 **PARTIES**

21 9. Petitioner is a citizen of Sudan who entered the United States on or about February 3,
22 2024. He has been in custody of the DIIS since December 2, 2025. Since that time, he has sought
23 relief with the Immigration Court.

24
25 10. Respondent, Gregory J. Archambeault, is the Field Office Director of the San Diego Field
26 Office of U.S. Immigration and Customs Enforcement (“ICE”) Enforcement and Removal
27 Operations and is responsible for immigration detention and enforcement operations within the
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1 San Diego Area of Responsibility, including the detention facility where Petitioner is held.
2 Respondent is sued in his or her official capacity.

3 11. Respondent Warden of Otay Mesa Detention Center is the immediate custodian of
4 Petitioner and is responsible for Petitioner's physical detention at Otay Mesa Detention Center in
5 San Diego, California. The Warden is sued in his or her official capacity.
6

7 12. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate authority
8 over DIIS. In that capacity and through her agents, Respondent Noem has broad authority over
9 and responsibility for the operation and enforcement of the immigration laws; routinely transacts
10 business in this District; and is legally responsible for pursuing any effort to detain and remove
11 Petitioner. Respondent Noem is sued in her official capacity.
12

13 13. Respondent Todd M. Lyons is the Acting Director of ICE. In that capacity, he oversees
14 ICE's enforcement and detention operations nationwide and is responsible for the policies,
15 practices, and procedures governing the detention of noncitizens in ICE custody, including
16 Petitioner. Respondent Lyons is sued in his official capacity.
17

18 14. The Respondent, Pamela Bondi is the U.S. Attorney General of the United States. She is
19 the head of the Department of Justice and is responsible for enforcing federal laws including laws
20 related to immigration matters. The Attorney General delegates this responsibility to the
21 Executive Office for Immigration Review ("EOIR"), which administers the immigration courts
22 and the Board of Immigration Appeals ("BIA"). Respondent Bondi is sued in her official
23 capacity.
24

25 **EXHAUSTION**

26 15. Petitioner argues that any appeal to the Board of Immigration Appeals ("BIA") would be
27 futile in light of the BIA's September 5, 2025, decision, in which the Board adopted DHS's
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1 interpretation of the INA as mandating detention without bond for millions of noncitizens
2 residing in the United States. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

3 16. In *Yajure Hurtado*, the BIA held that immigration judges lack jurisdiction to conduct bond
4 hearings or grant bond to individuals charged with entering the country without inspection.
5 Because BIA decisions are binding on immigration judges, *Hurtado* precludes an IJ from
6 asserting jurisdiction over noncitizens like Petitioner to conduct a custody redetermination
7 hearing.
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9 17. The Court should find administrative exhaustion would be futile. See *Vasquez- Rodriguez*
10 *v. Garland*, 7 F.4th 888, 896 (9th Cir. 2021) (“where the agency’s position appears already set and
11 recourse to administrative remedies is very likely futile, exhaustion is not required.”). Therefore,
12 judicial intervention enjoining Respondents from preventing Petitioner from having a bond
13 hearing pursuant to the holding in *Hurtado* is necessary to enable Petitioner to avail himself of his
14 administrative remedies. Therefore, the Court should consider the merits of the Petition.
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16 **FACTUAL ALLEGATIONS**

17 18. Petitioner is a native and citizen of Sudan. He was apprehended by U.S. immigration
18 officers upon his entry into the United States on February 3, 2024. Petitioner was subsequently
19 paroled into the United States and released from custody pursuant to INA § 212(d)(5).
20

21 19. Shortly thereafter, DIIS issued Petitioner NTA, hereby initiating removal proceedings
22 against him in immigration court. Following the issuance of the NTA, Petitioner timely filed his
23 application for asylum, Form I-589, complied with all requirements imposed upon him, including
24 providing a valid address, appearing as required, and otherwise engaging with the immigration
25 process in good faith. At no time during the pendency of those proceedings did DHS allege that
26 Petitioner posed a danger to the community or a risk of flight.
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1 20. On December 2, 2025, ICE arrested Petitioner and placed him in ICE detention facility at
2 Otay Mesa Detention Center. Petitioner is not subject to mandatory detention under INA § 236(c)
3 because he has no criminal history and was not transferred from criminal custody.

4 21. ICE abruptly arrested and detained Petitioner. ICE did so without identifying any material
5 change in circumstances that could justify detention. DHS did not allege that Petitioner had
6 violated any conditions, committed any crime, failed to appear, or otherwise engaged in conduct
7 warranting arrest.
8

9 22. DHS has continued to detain Petitioner at Otay Mesa Detention Center. Petitioner is
10 currently suffering from a serious medical condition, and his condition continues to deteriorate
11 while he remains in detention without adequate medical evaluation or treatment. Additionally,
12 continued detention severely impairs his ability to pursue asylum and communicate with counsel.
13 DHS has never found, and does not contend, that Petitioner poses a danger to the community or a
14 risk of flight. He has no criminal history, has consistently complied with all immigration
15 requirements, and has demonstrated his willingness to appear for all proceedings and comply with
16 any conditions of release.
17

18 **LEGAL BACKGROUND**

19
20 **A. The Constitution Protects Noncitizens from Arbitrary Arrest and Detention.**

21 23. The Constitution establishes due process rights for “all ‘persons’ within the United States,
22 including [noncitizens], whether their presence is lawful, unlawful, temporary, or permanent.”
23 *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693).
24 These due process rights are both substantive and procedural. The Due Process Clause of the
25 *Fifth* Amendment provides Petitioner with robust protection against arbitrary deprivation of
26 liberty by the federal government. As the Supreme Court has repeatedly emphasized, “[f]reedom
27 from imprisonment—from government custody, detention, or other forms of physical restraint—
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1 lies at the heart of the liberty that the Due Process Clause protects.” *Zadvydas v. Davis*, 533 U.S.
2 678, 690 (2001). This constitutional guarantee applies to all “persons” within the United States,
3 including noncitizens, regardless of immigration status, and it imposes meaningful limits on the
4 government’s power to detain individuals in the immigration context. The INA envisions three
5 basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens
6 in regular, non-expedited removal proceedings. 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a)
7 detention are entitled to a bond hearing at the outset of their detention, while noncitizens who
8 have committed certain crimes are subject to mandatory detention. 8 U.S.C. § 1226 (c).
9

10 24. Although Congress has broad authority to regulate immigration, that authority is
11 constrained by constitutional principles. Immigration detention is civil in nature, not criminal or
12 punitive, and therefore may be imposed only to the extent that it bears a reasonable relation to a
13 legitimate, non-punitive governmental purpose. *Zadvydas*, 533 U.S. at 690–92. When detention
14 ceases to serve such a purpose, or when it becomes arbitrary or excessive in relation to its
15 justification, it violates substantive due process. The Constitution does not permit the government
16 to detain a noncitizen simply because it has the power to do so; detention must be justified by
17 concrete, individualized reasons grounded in legitimate governmental interests.
18

19 25. The Supreme Court has identified only two purposes that may constitutionally justify civil
20 immigration detention: ensuring a noncitizen’s appearance at immigration proceedings and
21 protecting the community from danger. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510,
22 522, 528 (2003). Detention imposed for any other reason, such as administrative convenience,
23 deterrence, or coercion, falls outside the bounds of constitutional authority. While the government
24 fails to demonstrate that detention meaningfully advances either of these permissible purposes,
25 continued confinement becomes unlawful. Since the Supreme Court’s *Jennings v. Rodriguez*, 138
26 S. Ct. 830 (2018) decision, the Ninth Circuit has expressed “grave doubt” that “any statute that
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1 allows for arbitrary prolonged detention without any process is constitutional or that those who
2 founded our democracy precisely to protect against the government’s arbitrary deprivation of
3 liberty would have thought so.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

4
5 26. These constitutional limits apply with particular force where, as here, the government
6 continues to detain a noncitizen who is not subject to a final order of removal, and has never been
7 found to pose a danger or flight risk. Petitioner’s detention is not tethered to any pending
8 proceeding, and DHS has never articulated let alone substantiated any individualized reason why
9 his confinement is necessary. Under these circumstances, Petitioner’s continued detention bears
10 no reasonable relation to a legitimate governmental purpose and therefore violates substantive
11 due process.

12
13 **B. Procedural Due Process Requires Meaningful Safeguards Before Liberty May Be
14 Deprived.**

15 27. In addition to substantive limits, the Due Process Clause imposes procedural requirements
16 that must be satisfied before the government may deprive a person of physical liberty. At its core,
17 procedural due process requires notice and an opportunity to be heard “at a meaningful time and
18 in a meaningful manner” before a neutral decision maker. *Zinerman v. Burch*, 494 U.S. 113, 127
19 (1990); *Morrissey v. Brewer*, 408 U.S. 471, 481–82 (1972). These protections are especially
20 critical in the context of civil detention, where the risk of erroneous deprivation of liberty is high
21 and the individual’s interest in freedom is profound.

22
23 28. The Supreme Court has recognized that even where immigration detention is initially
24 authorized, continued detention may become unconstitutional if it is not accompanied by
25 adequate procedural safeguards. *Demore*, 538 U.S. at 532. As detention grows longer or more
26 disconnected from its original justification, due process requires an individualized assessment of
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1 whether continued confinement remains necessary and lawful. Absent such safeguards, detention
2 becomes arbitrary and constitutionally suspect.

3 29. Once a noncitizen has been released from custody and allowed to live in the community,
4 he acquires a constitutionally protected liberty interest in remaining free from physical restraint.
5 *Id.* Because immigration detention is civil and not punitive, it is constitutionally permissible only
6 so long as it bears a reasonable relation to a legitimate, non-punitive governmental purpose. *Id.*
7 When the government has permitted a noncitizen to remain at liberty in the community, due
8 process limits the government's ability to later deprive that individual of liberty through unilateral
9 executive action. See *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Zimmerman v. Burch*, 494
10 U.S. 113, 127 (1990). Any subsequent detention therefore triggers heightened procedural
11 protections, including notice, an individualized custody determination based on current facts, and
12 a meaningful opportunity to contest detention before a neutral decision maker.
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15 30. In Petitioner's case, DHS disregarded these constitutional requirements. After Petitioner
16 entered the United States and he was allowed to remain in the community for more than one year,
17 DHS later took him into custody without providing any individualized custody hearing. DHS
18 offered no explanation for why detention had suddenly become necessary and provided Petitioner
19 no forum in which to assert his protected liberty interest. Such detention is incompatible with the
20 Due Process Clause as interpreted in *Zadvydas*, which forbids confinement that is untethered
21 from a legitimate governmental purpose and imposed without adequate procedural safeguards.
22 See *Zadvydas*, 533 U.S. at 690; *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

24 **C. Detention Without Changed Circumstances or Individualized Findings Is Arbitrary and**
25 **Constitutionally Impermissible**

26 31. The constitutional principles governing arbitrary civil detention articulated in *Zadvydas*
27 apply with equal force when the government elects to take a noncitizen into custody long after
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1 entry, without any change in circumstances, individualized assessment, or lawful justification.
2 Civil detention must be justified at the moment it is imposed by a legitimate, non-punitive
3 governmental purpose and by individualized findings that detention is necessary. *Zadvydas*, 533
4 U.S. at 690–92; *Jackson v Indiana*, 406 U.S. 715, 738 (1972). The Due Process Clause does not
5 permit detention based solely on the passage of time or the noncitizen’s compliance with
6 immigration reporting requirements.
7

8 32. Petitioner entered into the United States on February 3, 2024, and was subsequently
9 paroled into the United States pursuant to INA § 212(d)(5). He remained in the community for an
10 extended period while complying with all immigration requirements imposed upon him. During
11 this time, DHS did not allege that Petitioner posed a danger to the community or a risk of flight,
12 nor did it seek to restrict his liberty in any manner. Petitioner’s extended period of compliance
13 demonstrates that detention was not necessary to serve either of the constitutionally permissible
14 purposes identified by the Supreme Court. See *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538
15 U.S. 510, 528 (2003).
16

17 33. On December 2, 2025, ICE took Petitioner into custody. DHS did not identify any change
18 in circumstances that would warrant detention. DHS did not allege that Petitioner had violated
19 any condition, failed to appear, committed any crime, or engaged in conduct suggesting
20 dangerousness or flight risk. Instead, Petitioner was detained solely because he complied with
21 DHS’s own reporting requirements. Detention imposed under such circumstances bears no
22 reasonable relation to a legitimate governmental purpose and is therefore arbitrary under
23 *Zadvydas*. See 533 U.S. at 690–92.
24

25 34. Detention imposed where a noncitizen has lived in the community, complied with all
26 requirements, and presents no individualized risk is punitive in effect, even if nominally civil. The
27 Constitution does not permit civil detention to be used as a tool of deterrence, coercion, or
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1 punishment. *Zadvydas*, 533 U.S. at 690–92; *Jackson*, 406 U.S. at 738. Transforming routine
2 compliance into a trigger for incarceration violates substantive due process.

3 35. The arbitrariness of Petitioner’s detention is further underscored by the absence of any
4 individualized custody determination. DHS did not assess Petitioner’s personal circumstances,
5 ties to the community, history of compliance, or likelihood of appearing for future proceedings.
6 Nor was Petitioner afforded any opportunity to contest his detention before a neutral decision
7 maker. Detention imposed without these procedural safeguards constitutes an exercise of
8 unfettered executive discretion that the Due Process Clause forbids. See *Morrissey*, 408 U.S. at
9 482; *Zinermon*, 494 U.S. at 127.

10 36. Detention imposed without changed circumstances, individualized findings, or procedural
11 safeguards violates substantive due process because it is not reasonably related to a legitimate
12 governmental purpose. It also violates procedural due process because it deprives an individual of
13 liberty without notice, a hearing, or an opportunity to be heard. *Zadvydas*, 533 U.S. at 690;
14 *Jackson*, 406 U.S. at 738. Petitioner’s detention, imposed for the first time during a routine check-
15 in despite his demonstrated compliance, exemplifies the type of arbitrary confinement the *Fifth*
16 Amendment prohibits.

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19 **D. Continued Detention of Non-Citizen Who is Not Subject to Mandatory Detention Is**
20 **Unconstitutional**

21 37. While noncitizens who have committed certain crimes are subject to mandatory detention
22 under U.S.C. § 1226(c), individuals in § 1226(a) detention are entitled to a bond hearing at the
23 outset of their detention. Continued detention after the government’s rationale has been rejected
24 by an Immigration Judge is no longer reasonably related to its purpose and therefore violates due
25 process under *Zadvydas*. See 533 U.S. at 690–92; *Saravia v. Sessions*, 280 F. Supp. 3d 1168,
26 1185 (N.D. Cal. 2017).
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1 38. Petitioner’s continued detention is constitutionally suspect because it reflects the use of
2 confinement not to ensure appearance at proceedings or to protect the community, but in a
3 manner that interferes with the exercise of statutory and constitutional rights. Prolonged detention
4 under these circumstances significantly impairs Petitioner’s ability to seek medical care, access
5 counsel and to meaningfully pursue his claims for relief, thereby compounding the due process
6 concerns presented by his continued confinement. See *Morrissey*, 408 U.S. at 482; *Saravia*, 280
7 F. Supp. 3d at 1185.

9 39. Due process does not permit the government to detain an asylum seeker indefinitely or
10 arbitrarily simply because he seeks protection. Where, as here, detention no longer serves a
11 legitimate purpose and is unaccompanied by procedural safeguards, it violates both substantive
12 and procedural due process. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.

14 **E. Due Process Requires Release or, at Minimum, a Prompt Individualized Custody
15 Hearing**

16 40. When detention becomes constitutionally suspect under *Zadvydas*, due process requires
17 either release from custody or, at minimum, a prompt individualized hearing before a neutral
18 decision maker to determine whether continued detention is lawful and necessary. Such relief is
19 expressly authorized by the federal habeas statutes, including 28 U.S.C. §§ 2241 and 2243,
20 which empower courts to order release where custody violates the Constitution.

21 41. At any such hearing, the government must bear the burden of proving that continued
22 detention is justified. Requiring the government to carry this burden is essential to protect
23 against erroneous deprivation of liberty and to ensure that civil detention remains the carefully
24 limited exception rather than the norm. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir.
25 2011); *Martinez v. Clark*, 36 F.4th 1219, 1226 (9th Cir. 2022).

1 42. In Petitioner’s case, DHS has never met, and cannot meet, its burden. Petitioner poses no
2 danger, presents no flight risk, and is actively pursuing asylum. His continued detention therefore
3 violates the *Fifth* Amendment, and habeas relief is warranted under *Zadvydas* and 28 U.S.C. §
4 2241.
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6 43. Petitioner’s arrest and continued detention reflect DHS’s recent practice of detaining
7 individuals who entered the United States and have complied with all immigration requirements,
8 despite the absence of any statutory basis or individualized necessity for confinement. Petitioner
9 entered the United States and timely applied for asylum, he was permitted to remain at liberty in
10 the community while pursuing protection. His continued compliance with DHS supervision
11 underscores that detention was not required to ensure his appearance or protect the community.
12

13 44. Currently the government’s new campaign is a significant shift from previous DHS
14 practice of re-detaining noncitizens only after a material change in circumstances. See *Saravia*
15 *v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H.*
16 *v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice). Under the administration’s
17 expanded approach to expedited removal, hundreds of thousands of noncitizens who have lived in
18 the country for significant periods of time are at imminent risk of summary removal without any
19 hearing, meaningful process, access to counsel, or judicial review, regardless of the strength of
20 their ties to the United States. Nevertheless, DHS later elected to place Petitioner into custody
21 without making any individualized determination that detention was warranted. This deprivation
22 of liberty did not result from any violation of law or change in legal status, but rather from an
23 enforcement approach that treats lawful parolees as subject to arrest and detention by default.
24

25 45. Courts have ruled that automatically stayed release from detention is a violation of the
26 *Fifth* Amendment. See *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025).
27 finding that it “does not require any showing of dangerousness or flight risk. Nor is it subject to
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1 immediate review by an immigration judge. It operates by fiat and has the effect of prolonging
2 detention even after a judicial officer has determined that release on bond is appropriate. That
3 mechanism's operation here, in the absence of any individualized justification, renders the
4 continued detention arbitrary as applied. *Zadvydas*, 533 U.S. at 699–700, 121, 2491 (recognizing
5 that removal must be reasonably foreseeable for continued post-removal detention to remain
6 reasonable). Without introducing evidence, the Government has wholly deprived Petitioner of
7 notice and the chance to rebut its case for continued detention.
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9
10 **CLAIMS FOR RELIEF**

11 **FIRST CLAIM FOR RELIEF**

12 **Violation of Substantive Due Process**

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

15 47. The Due Process Clause of the *Fifth* Amendment protects all “person[s]” from deprivation
16 of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—
17 from government custody, detention, or other forms of physical restraint, lies at the heart of the
18 liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

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

22 49. Petitioner is not a flight risk or danger to the community. Respondents’ detention of is
23 therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the
24 Due Process Clause of the *Fifth* Amendment.
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1 50. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any
2 legitimate government purpose. *Id.* Thus, the purpose of Petitioner’s detention appears to be “not
3 to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for
4 other reasons” namely, to meet newly-imposed DHS quotas and transfer immigration court venue
5 away from an IJ who refused to facilitate DHS’s new expedited removal scheme. *Demore*, 538
6 U.S. at 532–33.

8 **SECOND CLAIM FOR RELIEF**

9 **Violation of Procedural Due Process**

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

12 52. Procedural due process requires that before the government deprives an individual of
13 physical liberty, it must provide notice and a meaningful opportunity to be heard before a neutral
14 decision maker. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990); *Morrissey v. Brewer*, 408 U.S.
15 471, 481–82 (1972). These procedural protections apply with particular force in the immigration
16 detention context, where the risk of erroneous deprivation of liberty is substantial. *Hernandez v.*
17 *Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

18 53. Respondents violated Petitioner’s procedural due process rights by arresting and detaining
19 him without any constitutionally adequate individualized custody hearing or other opportunity to
20 contest the basis for his detention. Petitioner was taken into custody without notice, without
21 explanation, and without any hearing before a neutral decision maker.

22 54. Once Respondents permitted Petitioner to enter the United States and remain in the
23 community, he acquired a protected liberty interest in remaining free from confinement. That
24 liberty interest could not be extinguished by unilateral executive action without due process.
25 *Morrissey*, 408 U.S. at 482; *Zinerman*, 494 U.S. at 127.

1 55. Respondents' continued detention of Petitioner without a hearing creates an unacceptably
2 high risk of erroneous deprivation of liberty and violates procedural due process. *Hernandez*, 872
3 F.3d at 990.

4
5 **THIRD CLAIM FOR RELIEF**

6 **Unlawful Detention in Excess of Statutory Authority**

7 56. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully
8 set forth herein.

9 57. Respondents lack statutory authority to detain Petitioner. Petitioner is not subject to
10 mandatory detention under INA § 235 or § 236, nor is he detained pursuant to a final order of
11 removal.

12 58. To the extent Respondents rely on discretionary detention authority, such authority must
13 be exercised in a manner consistent with the Constitution and requires an individualized
14 determination of necessity. Detention that exceeds these statutory and constitutional limits is
15 unlawful. *Demore*, 538 U.S. at 528; *Zadvydas*, 533 U.S. at 690–92.

16 59. Because Respondents are detaining Petitioner without statutory authorization and in
17 violation of due process, he is “in custody in violation of the Constitution or laws of the United
18 States,” entitling him to habeas relief under 28 U.S.C. § 2241(c)(3).
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22 **FOURTH CLAIM FOR RELIEF**

23 **Entitlement to Immediate Release or, in the Alternative, a Prompt Individualized Custody**

24 **Hearing**

25 60. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully
26 set forth herein.
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1 61. Where immigration detention becomes constitutionally suspect, due process requires
2 either immediate release or, at minimum, a prompt individualized bond hearing before a neutral
3 decision maker. *Zadvydas*, 533 U.S. at 690–92; *Demore*, 538 U.S. at 532.

4 62. At any such hearing, the government must bear the burden of proving that continued
5 detention is lawful and necessary. *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Martinez*
6 *v. Clark*, 36 F.4th 1219, 1226 (9th Cir. 2022).

7 63. Respondents cannot meet that burden here. Petitioner has no criminal history, poses no
8 danger or flight risk, and is actively pursuing asylum.

9 64. Accordingly, this Court should issue a writ of habeas corpus ordering Petitioner’s
10 immediate release. In the alternative, the Court should order Respondents to provide a prompt
11 individualized custody hearing that satisfies due process, as required by 28 U.S.C. § 2243.

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14 **PRAYER FOR RELIEF**

15 Petitioner respectfully requests that this Court:

- 16 1. Assume jurisdiction over this matter.
- 17 2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner
18 from custody;
- 19 3. Declare that Petitioner’s arrest and detention violates the Due Process Clause of the
20 Fifth Amendment;
- 21 4. Enjoin Respondents from transferring Petitioner outside this District or deporting
22 Petitioner pending these proceedings;
- 23 5. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a
24 custody hearing before a neutral judge in which the government bears the burden of proving,
25 by clear and convincing evidence, that he is a flight risk or danger to the community;
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1 6. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for
2 by the Equal Access to Justice Act and 28 U.S.C. § 2412; and

3 7. Grant such further relief as the Court deems just and proper.
4

5 Respectfully submitted this 13th day of March 2026.

6 /s/ Maisoun Sulfab

7 _____
8 Maisoun Sulfab
9 *Counsel for the Petitioner*

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