

1 Naira Zohrabyan, Esq. [SBN 337925]
2 ZOHRABYAN LAW, APC
3 100 W. Broadway, Suite 540
4 Glendale, CA 91210
5 Tel: 818-270-5150
6 Fax: (747) 327-4059
7 Email: naira@zohrabyanlaw.com

DETAINED

8 Attorneys for Petitioner Firat Dasedemir
9
10
11

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

ZOHRABYAN
LAW, APC

14 **In the matter of:**

Case Number: '26CV1617 BAS AHG

15
16 **FIRAT DASDEMIR**



17 **v.**

18 **CHRISTOPHER LAROSE,**
19 **WARDEN OF OTAY MESA**
20 **DETENTION CENTER**

21 **PETITION FOR WRIT OF**
22 **HABEAS CORPUS AND ORDER**
23 **TO SHOW CAUSE WITHIN**
24 **THREE DAYS; COMPLAINT**
25 **FOR DECLARATORY RELIEF**

26 Challenge to Unlawful
27 Incarceration; Request for
28 Declaratory and Injunctive Relief

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


STATEMENT OF FACTS

1. Petitioner, Firat Dasdemir, is a native and citizen of Turkey. He entered the United States on March 27, 2022, where he was processed, issued an I-94, and subsequently released on parole. On March 27, 2022, he was served with a Notice to Appear. **See Exhibit “A” (NTA).**
2. Respondent upcoming Individual hearing is set on May 13, 2026, at 10:00 AM. **See Exhibit “B” Screenshot EOIR page.**
3. Petitioner has been residing and working in the US since March of 2022. On February 20, 2026, Petitioner was stopped by a CAP/ERO officer, while delivering a package to an UBER customer located at the Marine Corps Base Camp Pendleton.
4. Petitioner complied with conditions of his parole.
5. Respondents now seek to keep Petitioner detained without a meaningful opportunity to seek a bond hearing. *See* 8 U.S.C. § 1225. Respondents do so based not on Petitioner’s personal circumstances or individualized facts.
6. But Respondents cannot evade due process requirements so easily. The U.S. Constitution requires the Respondents provide at least the rights available to him when he filed his application.
7. The Constitution protects Petitioner and every other person present in this country- from arbitrary deprivations of his liberty and guarantees him due process of law. The government’s power over immigration is broad, but as the Supreme Court has declared, it “is subject to important constitutional limitations” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).
8. Petitioner seeks declaratory relief to compel his immediate release from the immigration jail where he has been held by DHS since being unlawfully detained

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

on February 20, 2026, without first being provided a due process hearing to determine whether his incarceration is justified.

9. Petitioner experienced severe distress and shock throughout his unlawful detention. He is a working member of the community, supports his family, pays taxes, and has a pending immigration case. He has been in full compliance with immigration requirements and is not a danger to the community nor a flight risk.

10. Petitioner was married to his wife, Monica Olga Finelli, who is a United States citizen. Together they are raising their FIVE-months old son,  who is also a United States citizen.

11. Since entering the U.S., Petitioner has complied with all conditions of his parole, received work authorization, issued a driver's license and a U.S. Social Security Card, and applied for asylum.

12. Petitioner is entitled to a bond hearing; Petitioner has a protected liberty interest in remaining out of custody. As Petitioner has a protected liberty interest, the Due Process Clause requires procedural protections before he can be deprived of that interest. Government's revocation of Petitioner's parole without notification, reasoning, or an opportunity to heard, denied Petitioner of her due process rights.

13. The risk of an erroneous deprivation of such interest is high as Petitioner's parole was revoked without providing a reason for revocation or giving an opportunity to be heard. Since DHS's initial determination that Petitioner be paroled because he posed no danger to the community and was not a flight risk, there is no evidence that this have been changed.

14. Absent review in this Court, no other neutral adjudicator will examine Petitioner's rights: Respondents will continue-unchecked-to detain him unlawfully under 8 U.S.C. § 1225 (b)(1), INA § 235 (b)(1), without due process.

15. Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to release Petitioner from detention within 10 days unless Respondents schedule a

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

ZOHRABYAN
LAW APC

1 hearing before an IJ where: (1) to continue detention, the government must establish
2 by clear and convincing evidence that Petitioner presents a risk of flight or danger,
3 even after consideration of alternatives to detention that could mitigate any risk that
4 Petitioner's release would present; and (2) if the government cannot meet its burden,
5 the IJ shall order Petitioner's release on appropriate conditions of supervision,
6 taking into account Petitioner's ability to pay a bond.

7 16. Petitioner's continued detention is arbitrary and unlawful, and he requests that
8 this Court order him immediate release from ICE custody.

9
10 **JURISDICTION**

11 17. This action arises under the Constitution of the United States and the Immigration
12 and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

13 18. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
14 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
15 Constitution (Suspension Clause).

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

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

21 21. Federal courts also have federal question jurisdiction, through the Administrative
22 Procedure Act ("APA"), to deem unlawful and to set aside agency action that is
23 arbitrary, capricious, an abuse of discretion or otherwise inconsistent with law. 5
24 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703, which
25 provides that judicial review of agency action under the APA may be proceeded
26 by any applicable form of legal action, including but not limited to habeas corpus.
27
28

1 The APA affords a right of review to a person who is adversely affected or harmed
2 by agency action.

3 **VENUE**
4

5 22. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and
6 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district
7 an Otay Mesa Detention Facility. Furthermore, a substantial part of the events or
8 omissions giving rise to this action occurred and continue to occur at ICE's Otay
9 Mesa Field Office in Otay Mesa, California, within this division. No real property
10 is involved in this action. 28 U.S.C. §1391(e).

11 **CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**
12

13 23. The Court must grant the petition for writ of habeas corpus or issue an order to show
14 cause (OSC) to the Respondents “forthwith” unless Petitioner is not entitled to relief.
15 28 U.S.C. 2243. If an OSC is issued, the Court must require Respondents to file
16 return “within three days unless good cause additional time, not exceeding twenty
17 days, is allowed.” *Id.*

18 24. Courts have long recognized the significance of the habeas statute in protecting
19 individuals from unlawful detention. The Great Writ has been referred to as “perhaps
20 the most important writ known to the constitutional law of England affording as it
21 does a swift and imperative remedy in all cases of illegal restraint or confinement.
22 *Fay v. Noia*, 372 U.S. 391, 400 (1963).

23 25. Petitioner is “in custody” for the purpose of 28 U.S.C. section 2241 because he was
24 arrested by Respondents and remains in their legal and physical custody at in
25 Imperial Regional Adult Detention Facility, California. He is under Respondent’s
26 and their agents’ direct control.
27
28

ZOHRABYAN
LAW, APC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LEGAL FRAMEWORK
ICE'S CONTINUED DETENTION OF PETITIONER, WITHOUT
REVIEWING HIS CUSTODY UNDER ICE POLICY VIOLATES THE
ADMINISTRATIVE PROCEDURE ACT AND DUE PROCESS.

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

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

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

29. When agencies fail to adhere to their own policies as required by *Accardi*, courts

ZOHRABYAN
LAW, APC

1 typically frame the violation as arbitrary, capricious, and contrary to law under
2 the APA, see *Damus v. Nielson*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) ("It is
3 clear, moreover, that [Accardi] claims may arise under the APA"), or as a due
4 process violation, see *Sameena, Inc. v. United States Air Force*, 147 F.3d 1148,
5 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations tends to
6 cause unjust discrimination and deny adequate notice and consequently may
7 result in a violation of an individual's constitutional right to due process.")
8 (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
12 before he is entitled to relief. All that need be shown is that the subject regulations
13 were for the alien's benefit and that the INS failed to adhere to them."); *Heffner*,
14 420 F.2d at 813 ("The Accardi doctrine furthermore requires reversal irrespective
15 of whether a new trial will produce the same verdict.").

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

25 32. "[T]he touchstone of 'arbitrary and capricious' review under the APA is 'reasoned
26 decision-making.'" *Altera Corp. & Subsidiaries v. Comm'r*, 926 F.3d 1061, 1080
27 (9th Cir. 2019) (quoting *State Farm*, 463 U.S. at 52). "[A]n agency's action can
28

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

14
15 33. Here, Petitioner falls into this category where ICE has failed to act as required by
16 their procedures and require intervention.

17 **CLAIMS FOR RELIEF**

18 **GROUND ONE**

19 **VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE**
20 **PROCESS**

21 **Petitioner has the right to challenge the legality of his detention**

22 34. The allegations in the above paragraphs are realleged and incorporated herein.

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

1 due process, including to challenge detention pending proceedings).

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

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

13 38. To the extent Respondent takes the extraordinary position that Petitioner has no due
14 process rights at all, that is unsupported by law and would have gruesome practical
15 consequences: “If excludable [noncitizens] were not protected by even the
16 substantive component of constitutional due process, ... we do not see why the
17 United States government could not torture or summarily execute them. ... [W]e
18 conclude that government treatment of excludable [noncitizens] must implicate the
19 Due Process Clause of the Fifth Amendment.”. *Rosales-Garcia v. Holland*, 322 F.3d
20 386, 412 (6th Cir. 2003) (en banc); see also *Jean v. Nelson*, 472 U.S. 846, 874
21 (1985) (Marshall, J., dissenting) (“[T]he principle that unadmitted [noncitizens]
22 have no constitutionally protected rights defies rationality. Under this view, the
23 Attorney General, for example, could invoke legitimate immigration goals to justify
24 a decision to stop feeding all detained [noncitizens] Surely, we would not
25 condone mass starvation.”). Thus, there is no question that Petitioner has the right
26 to challenge the constitutionality of his prolonged detention under the Due Process
27
28

1 Clause of the Fifth Amendment of the Constitution.

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

13 40. This Court accordingly found constitutional limits to apply to immigration
14 detention, irrespective of the underlying detention authority. *See, e.g., Vikas Kumar*
15 *v. Christopher Larose, Warden, Otay Mesa Detention Center et al.*, 25-CV-3796
16 JLS (DDL); *Aigul Kazybayeva v. Warden, Otay Mesa Detention Center* 3:26-cv-
17 00421-GPC-MMP; *Dariya Karmamoldoyeva v. Warden, Otay Mesa Detention*
18 *Center* 3:26-cv-00423-GPC-MSB; *Vladimir Petukhov v. Sixto Marrero* 3:26-cv-
19 00986-TWR-SBC; *Elchin Turabov v. Christopher Larose* 3:26-cv-01207-TWR-
20 B JW; *Dugar Dambaev v. Sixto Marrero* 26-cv-1182-JO-SBC. (**granting a writ of**
21 **habeas corpus releasing petitioner from custody to the conditions of her**
22 **preexisting parole on due process grounds**).

23
24 41. Likewise, relief was granted in similar matter. *See Doe v. Becerra*, 787 F. Supp. 3d
25 1083, 1089 (E.D. Cal. 2025); *Duong v. Kaiser*, --- F. Supp. 3d ---, 2025 WL
26 2689266, at *7–10 (N.D. Cal. 2025); *Pinchi*, 2025 WL 2084921, at *5; *Gonzalez*
27 *Salazar*, 2025 WL 3063629, at *6; *Abdul Kadir v. Larose*, Case No.: 25cv1045-LL-
28

1 MMP, 2025 WL 2932654, at *6 (S.D. Cal. Oct. 15, 2025); *Matute v. Wofford*, No.
2 1:25-cv-01206-KES-SKO (HC), 2025 WL 2495767, at *8 (E.D. Cal. Oct. 3, 2025).

3 42. ICE has violated Petitioner's due process rights by denying an individualized
4 custody review to which he is entitled under ICE policy.

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

8 **GROUND TWO**

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

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

12 44. The allegations in the above paragraphs are realleged and incorporated herein.

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

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

21 47. The risk of an erroneous deprivation of such interest is high as Petitioner's parole
22 was revoked without providing him a reason for revocation or giving an
23 opportunity being heard. Since DHS's initial determination that Petitioner should
24 be paroled because he posed no danger to the community and was not at flight risk,
25 there is no evidence that these findings have changes. See *Saravia v. Sessions*, 280
26 F. Supp. 3d 1168, 1760 (N.D. Cal2017).

27 48. Petitioner has no criminal record, has not been arrested or otherwise in criminal
28

ZOHRABYAN
LAW APC

1 trouble, had work authorization. “Once a noncitizen has been released, the law
2 prohibits federal agents from rearresting his merely because he is subject to
3 removal proceedings.” Saravia, 280 F. Supp. 2d at 1760. “Rather, the federal
4 agents must be able to present evidence of materially changed circumstances—
5 namely, evidence that the noncitizen is in fact dangerous or has become a flight
6 risk..” *Id.*

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

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

21 51. Petitioner’s parole without notification, reasoning, or an opportunity to be heard,
22 denied Petitioner of his due process rights. Therefore, his continued detention
23 violates 8 U.S.C. § 1231(a)(6), and he must be immediately released.

24 52. Furthermore, Petitioner is challenging his detention on constitutional grounds, not
25 statutory grounds. Notwithstanding the fact that he is being detained pursuant to
26 section 1225(b), Petitioner’s detention is unequivocally subject to Constitutional
27
28

ZOHRABYAN
LAW, APC

1 limits. The Supreme Court has not precluded noncitizens from bringing as-applied
2 constitutional challenges to their mandatory detention. Respondent correctly
3 states: *Jennings v. Rodriguez*, 583 U.S. 281 (2018) “did not explicitly address
4 constitutionality arguments.” U.S. Likewise, *While in Demore v. Kim*, 538 U.S.
5 510 (2003) the Supreme Court rejected a facial challenge to mandatory detention
6 under § 1226(c), the Supreme Court has explicitly recognized the availability of
7 judicial review over as-applied challenges to detention, including mandatory
8 detention. See, e.g., *Nielsen v. Preap*, 586 U.S. 392, 420 (2019); *Demore v. Kim*,
9 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring). This Court accordingly
10 found constitutional limits to apply to immigration detention, irrespective of the
11 underlying detention authority. See, e.g., *Vikas Kumar v. Christopher Larose*,
12 *Warden, Otay Mesa Detention Center et al.*, 25-CV-3796 JLS (DDL); *Aigul*
13 *Kazybayeva v. Warden, Otay Mesa Detention Center* 3:26-cv-00421-GPC-MMP;
14 *Dariya Karmamoldoyeva v. Warden, Otay Mesa Detention Center* 3:26-cv-00423-
15 GPC-MSB. (granting a writ of habeas corpus releasing petitioner from
16 custody to the conditions of her preexisting parole on due process grounds).

17
18 53. This Court should so hold as well.

19 **GROUND THREE**

20 **ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE**
21 **ADMINISTRATIVE PROCEDURE ACT**

22 **Petitioner’s ongoing and unreviewed detention violates his constitutional due**
23 **process rights and cannot continue without a bond hearing**

24 54. The allegations in the above paragraphs are realleged and incorporated herein.
25 Courts must “hold unlawful and set aside agency action” that is “arbitrary,
26 capricious, an abuse of discretion, or otherwise not in accordance with law.” 5
27 U.S.C. § 706(2)(A).
28

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

ZOHRABYAN
LAW APC

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

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

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

21 **PRAYER FOR RELIEF**

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

- 23 a) Assume jurisdiction over this matter;
24 b) Issue an Order to Show Cause ordering Respondents to show
25 cause why this Petition should not be granted within three
26 days.
27 c) Declare that Petitioner's detention violates the Due Process
28

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 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 16, 2026

Respectfully submitted



Naira Zohrabyan
Attorney for Petitioner

ZOHRABYAN
LAW, APC