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11 UMUT ISLAM ULGEN

12
13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

15 UMUT ISLAM ULGEN,

16 Petitioner,

17 v.

18 WARDEN OF IMPERIAL REGIONAL
19 DETENTION FACILITY,

20 GREGORY J. ARCHAMBEAULT, Director of San
21 Diego Field Office, Enforcement and Removal
22 Operations, U.S. Immigration and Customs
23 Enforcement,

24 KRISTI NOEM, Secretary of the Department of
25 Homeland Security,

26 TODD M. LYONS, Senior Official Performing the
27 Duties of Director of Immigration and Customs
28 Enforcement; and

PAM BONDI, Attorney General of the United
States,

Respondents, acting in their official capacity

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

'26CV1678 DMS AHG

TABLE OF CONTENTS

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

INTRODUCTION 8

JURISDICTION 9

VENUE 10

EXHAUSTION OF ADMINISTRATIVE REMEDIES 10

REQUIREMENTS OF 28 U.S.C. § 2243 11

PARTIES 12

STATEMENT OF FACTS 13

 I. Mr. Ulgen’s Life Prior to His Arrival in the United States 13

 II. Mr. Ulgen Enters the United States to Apply for Asylum for His Safety 14

LEGAL FRAMEWORK 14

ARGUMENT 18

 I. DHS’s Application Of 8 U.S.C. § 1225(B)(2) To Mr. Ulgen is Unlawful; His Detention is Properly Governed By 8 U.S.C. § 1226(A) 18

 II. Mr. Ulgen Has A Significant Private Interest in Liberty 18

 III. The Value of The Procedural Safeguard of a Bond Hearing Is High 20

 IV. Respondents Have No Valid Interest That a Bond Hearing Would Harm 21

CLAIM FOR RELIEF 22

PRAAYER FOR RELIEF 23

TABLE OF AUTHORITIES

		Page(s)
1		
2		
3	Cases	
4	Anicasio v. Kramer,	
5	No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224, at *2 (D. Neb. Aug. 14, 2025).....	16
6	Arrazola-Gonzalez v. Noem,	
7	No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025).....	16
8	Black v. Decker,	
9	103 F.4th 133, 151 (2d Cir. 2024).	19, 21
10	Cortez v. Sessions,	
11	318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018).	11
12	Demore v. Kim,	
13	538 U.S. 510, 523 (2003).	14, 17
14	Diaz Martinez v. Hyde,	
15	No. CV 25-11613-BEM, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24,	
16	2025).....	16
17	Fay v. Noia,	
18	372 U.S. 391, 400 (1963).	12
19	Fuentes v. Molina,	
20	607 F.3d 864, 887 (1st Cir. 2010).....	20
21	Gagnon v. Scarpelli,	
22	411 U.S. 778, 781–82 (1973).	18, 19, 20
23	Gomes v. Hyde,	
24	No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025).	15, 17
25	Hernandez Gomez v. Becerra,	
26	No. 23-cv-01330-WHO, 2023 WL 2802230, at *3–4 (N.D. Cal. Apr. 4, 2023).....	18
27	Hurd v. District of Columbia,	
28	864 F.3d 671, 683 (D.C. Cir. 2017).	20

1
2 I.E.S. v. Becerra,
3 No. 23-cv-03783-BLF, 2023 WL 6317617, at *8–9 (N.D. Cal. Sept. 27, 2023).18
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5 533 U.S. 289, 301 (2001).10
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8 Jacinto v. Trump,
9 No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271, at *3 (D. Neb. Aug. 19, 2025).....16
10 Jackson v. Indiana,
11 406 U.S. 715, 733 (1972).17
12 Jennings v. Rodriguez,
13 583 U.S. 281, 287 (2018).....15, 17
14 J.P. v. Garland,
15 685 F. Supp. 3d 943, 946–49 (N.D. Cal. Aug. 7, 2023).18
16 Jimenez v. Wolf,
17 No. 19-cv-07996-NC, 2020 WL 510347, at *2–4 (N.D. Cal. Jan. 30, 2020).....19
18 Jorge M.F. v. Wilkinson,
19 No. 21-cv-14340-JST, 2021 WL 783561, at *3–4 (N.D. Cal. Mar. 1, 2021).20
20 Jose J.O.E. v. Bondi,
21 No. 25-cv-3051 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 2
22 7,2025).....16
23 Kostak v. Trump,
24 No. 3:25-cv-01093-JB-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025).....16
25 Laing v. Ashcroft,
26 370 F.3d 994, 997 (9th Cir. 2004).....10, 11
27 Leal-Hernandez v. Noem,
28 No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025).....16

1 Lopez Benitez v. Francis,
2 No. 25 Civ. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025).16
3 Lopez-Campos v. Raycraft,
4 No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025).16
5 Lopez-Reyes v. Bonnar,
6 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019).21
7 Maldonado v. Olson,
8 No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025).....16
9 Meza v. Bonnar,
10 No. 18-cv-02708-BLF, 2018 WL 2554572, at *3–4 (N.D. Cal. June 4, 2018)...20
11 Ortega v. Bonnar,
12 415 F. Supp. 3d 963, 969–70 (N.D. Cal. 2019)20
13 Palma Perez v. Berg,
14 No. 8:25-cv-494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025).....16
15 Pizarro Reyes v. Raycraft,
16 No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).....16
17 Queen v. Spilsbury,
18 2 Q.B. 615 (1898).10
19 Rajnish v. Jennings,
20 No. 3:20-cv-07819-WHO, 2020 WL 7626414 (N.D. Cal. Dec. 22, 2020).....21
21 Ramirez Clavijo v. Kaiser,
22 No. 25-cv-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025).....16
23 Rasul v. Bush,
24 542 U.S. 466, 478 (2004).10
25 Reno v. Flores,
26 507 U.S. 292, 306 (1993).14
27 Rodriguez Diaz v. Garland,
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1	Rodriguez Picazo v. Garland,	
2	No. 23-cv-02529-AMO, 2023 WL 5352897, at *3–6 (N.D. Cal. Aug. 21, 2023),	18
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5	Romero v. Hyde,	
6	No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025).....	16
7	Rosado v. Figueroa,	
8	No. CV 25-02157-PHX-DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025).....	16
9	Rumsfeld v. Padilla,	
10	542 U.S. 426, 444–45 (2004).	10
11	Salesh P. v. Kaiser,	
12	No. 22-cv-03018-DMR, 2022 WL 17082375, at *8–9 (N.D. Cal. Nov. 18, 2022).	19
13	Samb v. Joyce,	
14	No. 25 Civ. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025).....	16
15	Sampiao v. Hyde,	
16	No. 1:25-cv-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025).....	16
17	Saravia v. Sessions,	
18	280 F. Supp. 3d 1168, 1196–97 (N.D. Cal. 2017).....	19
19	Sho v. Current or Acting Field Office Director,	
20	No. 1:21-cv-01812-TLN-AC, 2023 WL 4014649, at *3–5 (E.D. Cal. June 15, 2023)....	18
21	Singh v. Barr,	
22	400 F. Supp. 3d 1005 (S.D. Cal. 2019).	22
23	Vargas v. Jennings,	
24	No. 20-cv-5785-PJH, 2020 WL 5517277, at *2 (N.D. Cal. Sept. 14, 2020).	20
25	Vasquez Garcia v. Noem,	
26	No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025).....	16
27	Wright v. Henkel,	
28	190 U.S. 40, 63 (1903).	10

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3 Zadvydas v. Davis,
4 533 U.S. 721 (2001).14, 15, 19
5 Zaragoza Mosqueda v. Noem,
6 No. 5:25-cv-02304-CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025).16
7

8 **Statutes**

9 5 U.S.C. §504.....23
10 8 U.S.C. § 1225(b)8, 9, 15, 16, 17, 18, 23
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12 28 U.S.C. § 165110
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14 28 U.S.C. § 224110
15 28 U.S.C. § 2241 et seq.....10
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17
18
19
20
21
22
23
24
25
26
27
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INTRODUCTION

1
2 1. Petitioner Umut Islam Ulgen (“Mr. Ulgen” or “Petitioner”) has been civilly incarcerated
3 by Immigration and Customs Enforcement (“ICE”) at Imperial Regional Detention Facility, since
4 March 6, 2026 without any justification. He now faces unlawful detention because the Department
5 of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have
6 concluded Mr. Ulgen is subject to mandatory detention.

7 2. Mr. Ulgen is charged with, inter alia, having entered the United States without admission
8 or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).

9 3. Mr. Ulgen’s detention is particularly inexplicable and unfounded given that it was already
10 determined that he was neither a flight risk nor a danger to society when he was released on bond
11 into the United States in May of 2022. Mr. Ulgen files this petition to remedy baseless civil
12 detention without a bond hearing, in violation of his due process rights.

13 4. Mr. Ulgen is a Kurdish man born in Turkey, who has suffered lifelong persecution on
14 account of his Kurdish ethnicity and political opinion. Mr. Ulgen fled Turkey and sought refuge
15 in the United States in March of 2022, fearing further persecution if returned.

16 5. Mr. Ulgen entered the United States without inspection and was subsequently released
17 from DHS custody on bond.

18 6. On March 6, 2026, Mr. Ulgen was arrested and taken into custody by ICE officers at a
19 truck stop in Ontario, California. He was then transferred to the Imperial Regional Detention
20 Facility located at 1572 Gateway Road, Calexico, California 92231.

21 7. This detention is consistent with a new DHS policy issued on July 8, 2025, instructing all
22 Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under
23 8 U.S.C. § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or
24 inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to
25 be released on bond.

26 8. Furthermore, on May 15, 2025 the Board of Immigration Appeals (BIA or Board) issued a
27 decision in *Matter of Q. Li* that sharply limits the ability of certain detained immigrants to request
28 release on bond. The decision holds that individuals who are arrested shortly after entering the

1 United States without permission – regardless of whether they entered through a port of entry –
2 are considered “arriving aliens” detained under § 235(b) of the Immigration and Nationality Act
3 (INA). As a result they are not eligible for a bond hearing under INA § 236(a). See *Matter of Q.*
4 *Li*, 29 I&N Dec. 66 (BIA 2025).

5 9. Similarly, on September 5, 2025, the BIA issued a precedent decision, binding on all
6 immigration judges, holding that an immigration judge has no authority to consider bond requests
7 for any person who entered the United States without admission. See *Matter of Yajure Hurtado*,
8 29 I. & N. Dec. 216 (BIA 2025).

9 10. The Board determined that such individuals are subject to detention under 8 U.S.C. §
10 1225(b)(2)(A) and therefore ineligible to be released on bond. Petitioner’s detention on this basis
11 violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does
12 not apply to individuals like Petitioner who previously entered and are now residing in the United
13 States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release
14 on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are
15 charged as inadmissible for having entered the United States without inspection.

16 11. Respondents’ new legal interpretation is plainly contrary to the statutory framework and
17 contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

18 12. To date, no neutral adjudicator has reviewed whether Mr. Ulgen’s civil detention is lawful.

19 13. Mr. Ulgen’s baseless civil detention without a neutral hearing violates his right to
20 procedural due process. Accordingly, Mr. Ulgen respectfully asks this Court to issue a writ of
21 habeas corpus and order his release unless the government schedules a bond hearing before an
22 immigration judge, at which the government must justify his continued detention by clear and
23 convincing evidence. Absent this Court’s intervention, Mr. Ulgen’s detention without review
24 remains indefinite as he faces months, if not years of continued detention without a bond hearing.

25 **JURISDICTION**

26 14. Mr. Ulgen is currently detained in the custody of Respondents at the Imperial Regional
27 Detention Facility located in Calexico, California. Jurisdiction is proper over a writ of habeas
28 corpus pursuant to Article 1 § 9, clause 2 of the United States Constitution (the Suspension Clause);

1 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1331 (federal question). This action arises
2 under the Due Process Clause of the Fifth Amendment of the United States Constitution. This
3 Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory
4 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

5 15. The federal habeas statute establishes this Court’s power to decide the legality of Mr.
6 Ulgen’s detention and directs courts to “hear and determine the facts” of a habeas petition and to
7 “dispose of the matter as law and justice require.” 28 U.S.C. § 2243. Moreover, the Supreme Court
8 has held that the federal habeas statute codifies the common law writ of habeas corpus as it existed
9 in 1789. *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001) (“[A]t its historical core, the writ of habeas
10 corpus has served as a means of reviewing the legality of Executive detention, and it is in that
11 context that its protections have been strongest.”). The common law gave courts power to release
12 a petitioner to bail even absent a statute contemplating such release. *Wright v. Henkel*, 190 U.S.
13 40, 63 (1903) (“[T]he Queen’s Bench had, ‘independently of statute, by the common law,
14 jurisdiction to admit to bail.’”) (quoting *Queen v. Spilsbury*, 2 Q.B. 615 (1898)).

15 VENUE

16 16. Venue for the instant habeas corpus petition properly lies in this District because it is the
17 district with territorial jurisdiction over Respondent WARDEN OF IMPERIAL REGIONAL
18 DETENTION FACILITY, the facility at which Mr. Ulgen is currently detained. *See Rasul v. Bush*,
19 542 U.S. 466, 478 (2004) (holding that “because ‘the writ of habeas corpus does not act upon the
20 prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful
21 custody,’” proper federal district is dependent on the location of the custodian); *accord Rumsfeld*
22 *v. Padilla*, 542 U.S. 426, 444-45 (2004) (holding that jurisdiction must be obtained by service
23 within the territorial jurisdiction of the district court); *id.* at 451 (explaining petition “must be filed
24 in the district court whose territorial jurisdiction includes the place *where the custodian is located*”)
25 (Kennedy, J., concurring) (emphasis added).

26 EXHAUSTION OF ADMINISTRATIVE REMEDIES

27 17. Mr. Ulgen is not required to exhaust administrative remedies.

28 18. Exhaustion for habeas claims is prudential, not jurisdictional. *See Laing v. Ashcroft*, 370

1 F.3d 994, 997 (9th Cir. 2004). The prudential exhaustion requirement may be waived if
2 “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
3 would be a futile gesture, [or] irreparable injury will result.” *Id.* at 1000 (citation and quotation
4 marks omitted).

5 19. Mr. Ulgen was released after two months of detention upon his entry into the United States
6 in March of 2022. That release was suddenly and baselessly revoked, despite Mr. Ulgen having
7 spent four years living peacefully and integrating into his new community in the United States.

8 20. Mr. Ulgen did not request a bond hearing with the Immigration Judge after being arrested
9 in March of 2026 as the request would be futile. Concerning Mr. Ulgen’s proceeding with the bond
10 request, the request will be denied due to the above-mentioned cases holding that an Immigration
11 Judge lacks jurisdiction to hold a bond hearing for “an arriving alien” and those who entered the
12 United States without permission.

13 21. Moreover, requiring Mr. Ulgen to request parole or a bond hearing would also inflict
14 irreparable injury. *See Laing*, 370 F.3d at 1000. Mr. Ulgen currently has an asylum case pending
15 before the Board of Immigration Appeals. Depending upon the outcome, his case could be
16 remanded to the Immigration Judge, or he could seek Ninth Circuit review of the Board’s decision.
17 This process could entail several more months or even years of detention. Every day spent in
18 detention subjects Mr. Ulgen to irreparable harm, as he is deprived of his liberty and remains in
19 custody. *See Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (habeas petitioner
20 “suffers potentially irreparable harm every day that he remains in custody without a hearing, which
21 could ultimately result in his release from detention”). Given this background, the Court should
22 decline to apply an exhaustion requirement and/or find that Mr. Ulgen has exhausted the
23 administrative process available to him.

24 **REQUIREMENTS OF 28 U.S.C. § 2243**

25 22. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
26 (“OSC”) to the Respondents “forthwith,” unless it finds Mr. Ulgen is not entitled to relief. 28
27 U.S.C. § 2243. If the Court issues an OSC, it must require Respondents to file a response “within
28 *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

1 (emphasis added).

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

7 24. Habeas corpus must remain a swift remedy. Accordingly, “the statute itself directs courts
8 to give petitions for habeas corpus ‘special, preferential consideration to insure expeditious hearing
9 and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted).
10 In *Yong*, the court warned against any action creating the perception “that courts are more
11 concerned with efficient trial management than with the vindication of constitutional rights.” *Id.*

12 **PARTIES**

13 25. Mr. Ulgen is currently detained by Respondents pending removal proceedings. He was
14 previously released on his own recognizance and permitted to enter and remain in the United
15 States. However, after over three years of continuous presence in the United States, he was taken
16 into ICE custody on March 6, 2026. Mr. Ulgen has been detained at Imperial Regional Detention
17 Facility without any individualized determination or inquiry into whether his continued detention
18 is justified under ICE’s statutory or constitutional authority. After arresting Petitioner, ICE did not
19 set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board’s
20 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

21 26. Respondent Warden of Imperial Regional Detention Facility, is the warden of Imperial
22 Regional Detention Facility in Calexico, California. He oversees operations at Imperial Regional
23 Detention Facility, where Mr. Ulgen is detained. The Ninth Circuit has determined that the facility
24 administrator is the “immediate” and legal custodian of noncitizens held by ICE at privately-run
25 facilities. *See Doe*, 109 F.4th at 1198–99. He is named in his official capacity.

26 27. Respondent Gregory J. Archambeault is the Field Office Director for the San Diego Field
27 Office of ICE Enforcement and Removal Operations (“ERO”). As such, Respondent
28 Archambeault is the federal official most directly responsible for overseeing Imperial Regional

1 Detention Facility. He is the local ICE official who has legal custody of Mr. Ulgen. He is named
2 in his official capacity.

3 28. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
4 (“DHS”) and is responsible for overseeing the Department and its subagency, ICE. She has
5 ultimate responsibility for the detention of noncitizens in civil immigration custody. Secretary
6 Noem is a legal custodian of Mr. Ulgen. She is named in her official capacity.

7 29. Respondent Todd M. Lyons is the Acting Director for ICE. Respondent Lyons is
8 responsible for ICE’s policies, practices, and procedures, including those relating to the detention
9 of immigrants. He is named in his official capacity.

10 30. Respondent Pam Bondi is the Attorney General of the United States and the head of the
11 Department of Justice (“DOJ”), which encompasses the Board of Immigration Appeals (“BIA”) and
12 immigration judges as part of its sub-agency, the Executive Office for Immigration Review
13 (“EOIR”). She is empowered to oversee the adjudication of removal and bond hearings and by
14 regulation has delegated that power to the nation’s immigration judges and the BIA. She is
15 named in her official capacity.

16 **STATEMENT OF FACTS**

17 **I. Mr. Ulgen’s Life Prior to His Arrival in the United States**

18 31. Mr. Ulgen is a Kurdish man from Turkey. Because of his Kurdish identity and his perceived
19 political views, he was repeatedly subjected to discrimination, threats, and violence by Turkish
20 authorities and nationalist individuals. In Turkey, Kurdish people who are believed to support
21 Kurdish political movements are often targeted by police and ultranationalist groups. Due to his
22 participation in Kurdish cultural and political events and his association with activities related to
23 the HDP, he became a target of harassment and abuse. The authorities did not provide protection
24 and instead were the source of the persecution he experienced. The violence, threats, and risk of
25 arrest made it clear that he had no safe future in Turkey. In order to protect his life and freedom,
26 he left his country and came to the United States to seek asylum. (See Declaration of Umut Islam
27 Ulgen ¶ 5).

1 36. Due process requires “adequate procedural protections” to ensure that the government’s
2 asserted justification for physical confinement “outweighs the individual’s constitutionally
3 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation
4 marks omitted). In the immigration context, due process requires that the government provide bond
5 hearings to noncitizens facing prolonged detention. “The Due Process Clause foresees eligibility
6 for bail as part of due process” because “[b]ail is basic to our system of law.” *Jennings*, 583 U.S.
7 at 330 (Breyer, J., dissenting) (internal quotations and citations omitted).

8 37. On July 8, 2025, ICE, “in coordination with” the DOJ, announced a new policy entitled
9 “Interim Guidance Regarding Detention Authority for Applicants for Admission,” which stated
10 that all persons who entered the United States without inspection shall now be subject to the
11 mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a
12 person is apprehended and affects those who have resided in the United States for months, years,
13 and even decades.

14 38. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter*
15 *of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without
16 admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond
17 hearings.

18 39. Since Respondents adopted their new policies, dozens of federal courts have rejected their
19 new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of*
20 *Yajure Hurtado*, which adopts the same reading of the statute as ICE.

21 40. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma,
22 Washington, immigration court stopped providing bond hearings for persons who entered the
23 United States without inspection and who have since resided here. There, the U.S. District Court
24 in the Western District of Washington found that such a reading of the INA is likely unlawful and
25 that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the
26 United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d1239 (W.D. Wash. 2025).

27 41. Subsequently, court after court has adopted the same reading of the INA’s detention
28 authorities and rejected ICE and EOIR’s new interpretation. See, e.g., *Gomes v. Hyde*, No. 1:25-

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2 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
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10 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
11 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
12 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
13 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
14 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
15 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
16 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
17 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
18 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
19 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
20 Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
21 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2)
22 authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3
23 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFBRCC, 2025 WL
24 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

25 42. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the
26 INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory
27 provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

28 43. Section 1226(a) applies by default to all persons “pending a decision on whether the

1 [noncitizen] is to be removed from the United States.” These removal hearings are held under §
2 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

3 44. The text of § 1226 also explicitly applies to people charged as being inadmissible, including
4 those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference
5 to such people makes clear that, by default, such people are afforded a bond hearing under
6 subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific
7 exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally
8 applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs.,*
9 *P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes*, 2025 WL 1869299, at *7.

10 45. Section 1226 therefore leaves no doubt that it applies to people who face charges of being
11 inadmissible to the United States, including those who are present without admission or parole.

12 46. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
13 entered the United States. The statute’s entire framework is premised on inspections at the border
14 of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the
15 Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s
16 borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking
17 to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

18 47. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to
19 people like Mr. Ulgen who have already entered and were residing in the United States at the time
20 they were apprehended.

21 48. Furthermore, where a noncitizen has been detained for a prolonged period or is pursuing a
22 substantial defense to removal or claim for relief, due process requires an individualized
23 determination that such a significant deprivation of liberty is warranted. *Demore*, 538 U.S. at 532
24 (Kennedy, J., concurring) (“individualized determination as to his risk of flight and dangerousness”
25 may be warranted “if the continued detention became unreasonable or unjustified”); see also
26 *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the initial commitment requires
27 additional safeguards).

28 49. In the context of parole revocation, due process requires that parolees receive an

1 individualized hearing because they have a liberty interest in their conditional release. See
2 *Morrissey*, 408 U.S. at 484 (holding that there is “no interest on the part of the State in revoking
3 parole without any procedural guarantees at all”); *Young*, 520 U.S. at 152 (holding that individuals
4 released into a pre-parole program created to reduce prison overcrowding have a protected liberty
5 interest requiring pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973)
6 (holding that individuals released on felony probation have a protected liberty interest requiring
7 pre-deprivation process).

8 ARGUMENT

9 **I. DHS’s Application of §1225(b)(2) to Mr. Ulgen is unlawful; His detention** 10 **is properly governed by §1226(a)**

11 50. Mr. Ulgen entered the United States on March 5, 2022— four years prior to his current
12 detention. He was detained for approximately two months and subsequently released and placed
13 into standard removal proceedings. Because Mr. Ulgen was released into the interior and placed
14 in ordinary removal proceedings, he should not be classified as an “arriving alien” under 8 U.S.C.
15 § 1225(b)(2). Accordingly, his detention is governed by 8 U.S.C. § 1226(a), and he is entitled to
16 an individualized bond hearing before an immigration judge.

17 **II. Mr. Ulgen Has a Significant Private Interest in Liberty.**

18 51. Courts have evaluated constitutional challenges to prolonged immigration detention using
19 the *Mathews v. Eldridge* test, which balances (1) the private interest threatened by government
20 action; (2) the risk of erroneous deprivation of such interest, and the probable value of additional
21 procedural safeguards; and (3) the government interest. 424 U.S. 319, 335 (1976); see, e.g., *Sho v.*
22 *Current or Acting Field Off. Dir.*, 1:21-cv01812 TLN AC, 2023 WL 4014649, at *3–5 (E.D. Cal.
23 June 15, 2023) (applying the *Mathews* test and granting bond hearing for individual held in
24 prolonged detention); *I.E.S. v. Becerra*, No. 23-cv-03783-BLF, 2023 WL 6317617, at *8–9 (N.D.
25 Cal. Sept. 27, 2023) (same); *Doe v Becerra*, No. 23-cv-02382-DMR, 2023 WL 5672192, at *7–8
26 (N.D. Cal. Sept. 1, 2023) (same); *Rodriguez Picazo v. Garland*, No. 23-cv-02529-AMO, 2023 WL
27 5352897, at *3–6 (N.D. Cal. Aug. 21, 2023) (same); *J.P. v. Garland*, 685 F.Supp.3d 943, 946–49
28 (N.D. Cal. Aug. 7, 2023) (same); *Hernandez Gomez v. Becerra*, No. 23-cv-01330-WHO, 2023 WL

1 2802230, at *3–4 (N.D. Cal. Apr. 4, 2023) (same); *Salesh P. v. Kaiser*, No. 22-cv-03018-DMR,
2 2022 WL 17082375, *8–9 (N.D. Cal. Nov. 18, 2022) (same); *Jimenez v. Wolf*, No. 19-cv-07996-
3 NC, 2020 WL 510347, *2–4 (N.D. Cal. Jan. 30, 2020) (same). Indeed, in a challenge to detention
4 under the nonmandatory provision, the Ninth Circuit applied *Mathews* balancing because it
5 “remains a flexible test” commonly applied by courts in the immigration context. *Rodriguez Diaz*
6 *v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022). For the first prong of the *Mathews* test, the
7 Court must consider the private interest threatened by the governmental action. 424 U.S. at 335.
8 Here, Mr. Ulgen’s private interest “is the most significant liberty interest there is—the interest in
9 being free from imprisonment.” See *Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024) (cleaned
10 up). Mr. Ulgen has been detained without a single neutral review of his custody since March 6
11 2026, when ICE revoked his grant of parole. Mr. Ulgen will remain imprisoned until his pending
12 asylum application is adjudicated, which may take many more months. This length of detention
13 without a hearing automatically “raises serious due process concerns.” *Id.* at 150

14 52. Additionally, in the context of parole revocation, individuals retain a weighty liberty
15 interest under the Due Process Clause of the Fifth Amendment in avoiding reincarceration. In
16 *Morrissey v. Brewer*, a case involving parole revocation, the court held that “the liberty of a
17 parolee, although indeterminate, includes many of the core values of unqualified liberty and its
18 termination inflicts a grievous loss on the parolee and often others.” 408 U.S. 471, 482 (1972).
19 This is true even when the freedom may ultimately be revocable should circumstances materially
20 change. See *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981); *Saravia v. Sessions*, 280 F. Supp.
21 3d 1168, 1196-97 (N.D. Cal. 2017).

22 53. *Morrissey*’s basic principle – that individuals have a liberty interest in their conditional
23 release – has been reinforced by both the Supreme Court and numerous circuit courts. See *Young*,
24 520 U.S. at 152 (holding that individuals released into a pre-parole program created to reduce
25 prison overcrowding have a protected liberty interest requiring pre-deprivation process); *Gagnon*,
26 411 U.S. at 781–82 (holding that individuals released on felony probation have a protected liberty
27 interest requiring pre-deprivation process); *Zadvydas*, 533 U.S. at 690 (holding that due process
28 protects “all ‘persons’ within the United States . . . whether their presence here is lawful, unlawful,

1 temporary or permanent” who face immigration detention). As the First Circuit has explained,
2 when analyzing the issue of whether a specific conditional release rises to the level of a protected
3 liberty interest, “[c]ourts have resolved the issue by comparing the specific conditional release in
4 the case before them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-*
5 *Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation
6 omitted); *see also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) (noting
7 that “a person who is in fact free of physical confinement—even if that freedom is lawfully
8 revocable—has a liberty interest that entitles him to constitutional due process before he is re-
9 incarcerated) (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at
10 482).

11 54. Here, Mr. Ulgen, has a liberty interest in being free from confinement, which has been
12 challenged by his unjust detention and revocation of his parole. The burden on Mr. Ulgen’s liberty
13 is substantial. He has been separated from his community and deprived of his freedom. Like people
14 on parole, individuals like Mr. Ulgen who await decisions in their immigration cases have a liberty
15 interest in remaining out of custody on bond. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969–70
16 (N.D. Cal. 2019) (finding that the petitioner had a substantial private interest in remaining on bond
17 and enjoining ICE from rearresting petitioner until a hearing is held) (citing *Morrissey*, 408 U.S.
18 at 482); *Ortiz Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5517277, at *2 (N.D. Cal. Sept.
19 14, 2020) (same); *Jorge M.F. v. Wilkinson*, No. 21-cv-14340JST, 2021 WL 783561, at *3–4 (N.D.
20 Cal. Mar. 1, 2021) (same); *Meza v. Bonnar*, No. 18-cv-02708-BLF, 2018 WL 2554572, at *3–4
21 (N.D. Cal. June 4, 2018) (same). Mr. Ulgen was never afforded a pre-deprivation or post-
22 deprivation hearing on the revocation of his parole and/or his detention.

23 III. The Value of the Procedural Safeguard of a Bond Hearing is High

24 55. The second prong of the *Mathews* test, the risk of erroneous deprivation of such interest
25 through the procedures used and the probable value of additional procedural safeguards, weighs
26 heavily in Mr. Ulgen’s favor as well. 424 U.S. at 335.

27 56. “[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a
28 neutral decisionmaker is substantial.” *Diouf*, 634 F.3d at 1092. Since Mr. Ulgen has been detained

1 on March 6 2026, he has not had a bond hearing and thus has never been afforded process to
2 evaluate or the opportunity to contest the necessity of his ongoing detention. *See Rajnish v.*
3 *Jennings*, No. 3:20-CV-07819-WHO, 2020 WL 7626414, at *9 (N.D. Cal. Dec. 22, 2020) (finding
4 that the value added by a hearing is “great” where petitioner had been held for nine months since
5 an “unconstitutional” initial bond hearing that “assigned the risk of error to him, not to the
6 government”). Furthermore, given the current legal framework as explained above, a bond hearing
7 would be frivolous, as the BIA has held that a person in Mr. Ulgen’s position is mandatorily
8 detainable. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

9 **IV. Respondents Have No Valid Interest that a Bond Hearing Would Harm**

10 57. The third *Mathews* factor also supports Mr. Ulgen’s petition: the government interest
11 served by Mr. Ulgen’s indefinite detention without a hearing is illegitimate here because the
12 interest at stake “is the ability to detain Petitioner *without providing him a bond hearing*, not
13 whether the government may continue to detain him at all.” *Lopez-Reyes v. Bonnar*, 362 F. Supp.
14 3d 762, 777 (N.D. Cal. 2019); *Henriquez*, 2022 WL 2132919, at *5 (“[T]he Government’s interest
15 in detaining Petitioner without providing an individualized bond hearing is low.”). While the
16 government has legitimate interests in ensuring a noncitizen’s appearance in court and protecting
17 the community, providing a bond hearing would “do nothing to undercut those interests.” *Black*,
18 103 F.4th at 153. At any ordered bond hearing, “the IJ would assess on an individualized basis
19 whether the noncitizen presents a flight risk or danger to the community, as IJs routinely do for
20 other noncitizen detainees.” *Id.* at 153–54.

21 58. Moreover, requiring Respondents to justify Mr. Ulgen’s detention “promotes the
22 Government’s interest—one [courts] believe to be paramount—in minimizing the enormous
23 impact of incarceration in cases where it serves no purpose.” *See id.* (noting that “the public interest
24 drives analysis of the third factor” under *Mathews*).

25 59. The government has not articulated any interest in detaining Mr. Ulgen without an
26 individualized bond hearing. The government has not given any reason to justify Mr. Ulgen’s
27 continued detention and has not shown that he presents a flight risk or danger to the community.
28 Thus, applying the *Mathews* factors, this Court should find that due process entitles Mr. Ulgen

1 to an individualized bond hearing by an Immigration Judge.

2 60. Mr. Ulgen requests a bond hearing before a neutral adjudicator in which the government
3 bears the burden of proving his flight risk or danger by a clear and convincing evidence standard.
4 *See Singh v. Holder*, 638 F.3d 1196, 1204 (9th Cir. 2011) (“[D]ue process places a heightened
5 burden of proof on the State in civil proceedings in which the individual interests at stake...are
6 both particularly important and more substantial than mere loss of money.”) (internal quotation
7 marks omitted), *abrogated on other grounds by Rodriguez Diaz*, 53 F.4th at 1202; *see also Ixchop*
8 *Perez v. McAleenan*, 435 F. Supp. 3d 1055, 1062 (N.D. Cal. 2020) (noting the “consensus view”
9 among District Courts concluding that after *Jennings* “where ... the government seeks to detain an
10 alien pending removal proceedings, it bears the burden of proving that such detention is justified);
11 *Gonzalez*, 2019 WL 330906, at *6 (collecting cases applying *Singh* burden of proof for prolonged
12 detention hearings post-*Jennings*); *Singh v. Barr*, 400 F. Supp. 3d 1005 (S.D. Cal. 2019) (finding
13 due process requires the government to bear the burden in immigration bond proceedings).

14 61. Due process also requires consideration of a noncitizen’s ability to pay a monetary bond.
15 “Detention of an indigent ‘for inability to post money bail’ is impermissible if the individual’s
16 ‘appearance at trial could reasonably be assured by one of the alternate forms of release.’” *Id.* at
17 990 (citation omitted). It follows that—in determining the appropriate conditions of release for
18 immigration detainees—due process requires “consideration of financial circumstances and
19 alternative conditions of release” to prevent against detention based on poverty. *Id.*

20 **CLAIM FOR RELIEF**

21 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO**
22 **THE U.S. CONSTITUTION**

23 62. Petitioner re-alleges and incorporates by reference the paragraphs above.

24 63. The Due Process Clause of the Fifth Amendment forbids the government from depriving
25 any “person” of liberty “without due process of law.” U.S. CONST. AMEND. V.

26 64. To justify Petitioner’s ongoing re-detention, due process requires that the government
27 establish, at an individualized hearing before a neutral decisionmaker, that Petitioner’s detention
28

1 is justified by clear and convincing evidence of flight risk or danger, even after consideration
2 whether alternatives to detention could sufficiently mitigate that risk.

3 **VIOLATION OF THE INA**

4 65. Petitioner re-alleges and incorporates by reference the paragraphs above.

5 66. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention
6 and violates the INA.

7 67. To justify Petitioner's ongoing re-detention, due process requires that the government
8 establish, at an individualized hearing before a neutral decisionmaker, that Petitioner's detention
9 is justified by clear and convincing evidence of flight risk or danger, even after consideration
10 whether alternatives to detention could sufficiently mitigate that risk.

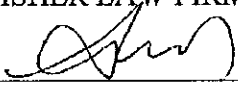
11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner respectfully requests that this Court:

- 13 1) Assume jurisdiction over this matter;
- 14 2) Issue a Writ of Habeas Corpus and order Respondents, unless they elect to release
15 Petitioner, to schedule a hearing before an immigration judge where: (1) to continue
16 detention, the government must establish by clear and convincing evidence that Petitioner
17 presents a risk of flight or danger, even after consideration of conditions of supervision;
18 and (2) if the government cannot meet its burden, the immigration judge order Petitioner's
19 release on appropriate conditions of supervision, taking into account Petitioner's ability to
20 pay a bond;
- 21 3) Award reasonable costs and attorney fees under the Equal Access to Justice Act ("EAJA"),
22 as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under
23 law; and
- 24 4) Grant such further relief as the Court deems just and proper.

25
26 Dated: 03/17/2026


FISHER LAW FIRM, P.C.

27 
28 ADEM A. BALIKCI
TANNER N. PURYEAR
Attorneys for Petitioner
Umut Islam Uigen

Verification Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Umut Islam Ulgen because I am one of Mr. Ulgen's attorneys. As Mr. Ulgen's attorney, I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: 03/17/2026


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