Emily L. Robinson Esq.
Law Office of Emily L. Robinson
5012 Eagle Rock Blvd.
Los Angeles, CA 90041
emily@lawofficeemilyrobinson.com
(323) 524-7611
(323) 524-4001

Counsel for Petitioner

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

ROBERT MATEUSZ PODSKARBI
[redacted]

Petitioner,
vs.

Kristi NOEM or ACTING DIRECTOR, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General; Todd LYONS, Acting Director, Immigration and Customs Enforcement; J. ARCHAMBEAULT, Director, San Diego Field Office, Immigration and Customs Enforcement, Enforcement and Removal Operations; Jeremy CASEY, Warden, Imperial Regional Detention Facility, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; IMMIGRATION AND CUSTOMS ENFORCEMENT; and U.S. DEPARTMENT OF HOMELAND SECURITY,

Respondents

Case No.
'26CV1862 JO AHG

VERIFIED PETITION FOR HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

IMMIGRATION HABEAS CASE

FACTUAL BACKGROUND

PETITIONER'S IMMIGRATION HISTORY

1. Petitioner ROBERT PODSKARBI ("Petitioner"), by and through undersigned counsel, files this petition for a writ of habeas corpus challenging the unlawful revocation of his release from Department of Homeland Security ("DHS") custody and his continued prolonged detention without constitutionally adequate process.

2. Petitioner has now been detained for more than eight months, and his continued detention can serve no non-punitive purpose. He has open, bleeding wounds [redacted] the result of an autoimmune skin condition that has gone without appropriate treatment since November of 2025 alongside unknown conditions that continue to worsen daily and are not being meaningfully evaluated. *See Exh. H and Robinson Decl.* Immigration Facilities, in particular the Imperial Regional Detention Facility have shown medical neglect to the level that has led to death and great bodily injury.[1]

3. Facility medical staff have treated him with antihistamine and allergy medications throughout, despite his documented history of psoriatic disease. At his most recent medical encounter, staff reported they do not know the cause of his condition and would continue the same medications; they then discovered they had run out. *Id.*

4. He has contracted scabies in an overcrowded dormitory and is required daily to stand in direct sunlight for at least one hour daily and is locked out of the facility, which worsens

[1] "Another Immigrant Dies in ICE Custody in California This Time in the Imperial Valley," Kori Suzuki, KPBS, October 6, 2025 last accessed at: https://www.kpbs.org/news/border-immigration/2025/10/06/another-immigrant-dies-in-ice-custody-in-california-this-time-in-the-imperial-valley?utm; "6 Deaths in ICE Custody and 2 Fatal Shooting: A Horrific Start to 2026," American Immigration Council, Ilse Ramirez, February 11, 2026, last accessed at: https://www.americanimmigrationcouncil.org/blog/ice-deaths-shootings-2026/; Immigration Detention in California, A Comprehensive Review with a Focus on Mental Health, California Department of Justice, 2025, last accessed at: https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf

his condition and no precautions are taken. These are not incidental features of his confinement. They confirm that his continued detention serves no regulatory purpose and functions as punishment.

5. Petitioner was previously in immigration custody and released on an immigration bond in 2020. *See Robinson Decl. and Exhibit C.* He complied with every condition of that release for more than five years, completing ICE check-ins, wearing an ankle monitor for three years without issue (ICE removed due to compliance), and appearing at every scheduled court proceeding without exception.

6. In July 2025, he appeared voluntarily at an appointment following his request to travel. While the appointment was framed to provide that permission, instead, without any notice, he was taken into custody. No violation had been identified. No new criminal conduct had occurred. No statutory basis was stated at the time of detention. The only prior indication of that appointment was a notice sent to his wife as obligor directing him to appear for an interview; it did not state that his liberty would be revoked or that detention was contemplated and came following a message from immigration to appear for review of the travel request. *See Robinson Decl., Exhibit F & G.*

7. After his detention. Respondents advanced a mandatory detention theory based on the same facts the IJ had before him when he granted release from immigration custody on a judicially issued bond. Petitioner has not had any intervening conduct to change the analysis used by the immigration court in 2020. In this period of years on release, liberty interests have become more concrete. *See Robinson Decl. and Exhibit D.*

8. His wife, a United States citizen, has clinically documented [redacted] Her treating clinician has

documented [redacted]

[redacted]

9. On information and belief, ICE has no particularized evidence that Petitioner is a danger to the community or flight risk. Prior to his re-detention, Petitioner was given no notice of ICE's intention to revoke his release on judicial bond and no explanation for that revocation. ICE has no particularized evidence that Petitioner is a danger to the community or a flight risk.

10. Petitioner's ongoing detention violates his Fifth Amendment substantive due process rights because he is neither a flight risk nor a danger to the community. His detention violates his procedural due process rights because his judicial bond was unilaterally revoked without any notice or any opportunity to contest his detention before a neutral arbiter. His re-detention violates the Fourth Amendment's prohibition on unreasonable seizure because no new, intervening cause justified re-arrest.

11. Petitioner seeks a writ of habeas corpus requiring **his immediate release** and return to the status quo ante. He also requests this Court enjoin Respondents from re-detaining him: (1) absent further order of this Court; or (2) absent the provision of a pre-deprivation hearing before a neutral arbiter, at which Respondents bear the burden of proving by clear and convincing evidence that he is a flight risk or a danger to the community. This includes release without GPS monitoring and a return of his valid work authorization document and any other identity document.

PARTIES

12. Petitioner Robert Mateusz Podskarbi [redacted] is a native and citizen of Poland, currently detained at the Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, California 92231.

13. Respondent Kristi Noem (or acting interim Secretary of DHS), the Secretary of the DHS, is the highest-ranking official within the DHS. Respondent Noem, by and through her agency for the DHS, is responsible for the implementation of the INA, and for ensuring compliance with applicable federal law. She is also responsible for the detention of non-citizens by DHS. Respondent Noem is sued in her official capacity as an agent of the government of the United States. This also includes "Acting Director." As of the moment of this filing, Krisi Noem has been fired and her replacement has not commenced his role.

14. Respondent Pamela Bondi, the Attorney General, is the highest-ranking official within the Department of Justice (DOJ). Respondent Bondi has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103. As the Immigration and Nationality Act (INA) has not been amended to reflect the designation of the Secretary of the DHS as the administrator and enforcer of immigration laws, Respondent Bondi is sued in her official capacity to the extent that 8 U.S.C. § 1102 gives her authority over immigration law.

15. Todd Lyons is the Acting Director of Immigration and Customs Enforcement, a federal law enforcement agency within the Department of Homeland Security. ICE's responsibilities include operating the immigration detention system. In his capacity as ICE Acting Director, Respondent Lyons exercises control over and is a custodian of persons held at ICE facilities nationally. He is Petitioners' immediate custodian and is responsible for Petitioners' detention. He is sued in his official capacity.

16. Respondent J. Archambeault is the Acting Director of the San Diego Field Office of ICE's Enforcement and Removal Operations division. As such, he is the custodian of all persons held at the ICE facilities within the Los Angeles Field Office Area of

Responsibility. He is Petitioner's immediate custodian and is responsible for Petitioner's detention. He is sued in his official capacity.

17. Respondent J. Casey is the Warden of the Imperial Detention Center in Calexico, California, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

18. Respondent Executive Office for Immigration Review (EOIR) is the federal agency within the Department of Justice responsible for implementing the INA in removal proceedings, including for custody redeterminations or bond hearings.

19. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

20. Respondent Immigration and Customs Enforcement (ICE) is the agency within DHS responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

JURISDICTION AND VENUE

21. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution (the Suspension Clause); 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act); the Fourth and Fifth Amendments to the U.S. Constitution; and the common law. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2001 et seq., and the All-Writs Act, 28

U.S.C. § 1651.

22. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

23. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; Petitioner is in the custody of the San Diego Field Office of Immigration and Customs Enforcement and the warden of the Imperial Detention Center, both of which are in the jurisdiction of the Southern District of California; and there is no real property involved in this action.

FACTUAL BACKGROUND

Background and Immigration History:

24. Robert Mateusz Podskarbi was born on [redacted] in Poland. He lawfully entered the United States on January 18, 2007, through Los Angeles International Airport on a B-1/B-2 visitor visa. In January 2008, he adjusted to F-1 student status, which he maintained through 2015.

25. In 2011, Mr. Podskarbi met Faye Podskarbi, a United States citizen. They married in 2015. In 2016 they filed an I-130 Petition for Alien Relative and an I-485 Application for Adjustment of Status. The I-130 was approved on September 6, 2017. *See Robinson Decl. and Exhibit E.* The I-485 remains pending. There is no final order of removal. There is no imminent removal outcome.

26. Mr. Podskarbi and his wife have maintained a stable residence in Irvine, California for many years. They operate a home cleaning business in Irvine with a substantial client base

built over many years. Fifty-six members of his community have submitted letters of support, including letters from the Mayor of Irvine, an Orange County Supervisor, community organizations, and long-term clients who have employed him for seven to ten years or more.

The 2020 Release on Own Recognizance and Substantive Compliance

27. In February 2020, Mr. Podskarbi was detained by ICE. He was held at Adelanto Detention Center. His case went before an Immigration Judge. The IJ had before him Mr. Podskarbi's full record, including the 2001 convictions in Poland that Respondents now invoke as the basis for mandatory detention.

28. On May 20, 2020, Mr. Podskarbi was released on a $15,000 bond and found him not to be a danger or a flight risk. This has proven true. Upon information and belief that determination was not appealed by DHS. It became the operative custody status.

29. For more than five years following that release, Mr. Podskarbi complied with every condition without exception. He did not miss a single obligation. He did not engage in any new criminal conduct.

30. During that same period, the government had continuous access to Mr. Podskarbi and full knowledge of his history. At no point during those five years did the government move to revoke his bond or assert that he was subject to mandatory detention. The government accepted the bond order and his compliance with it for the entirety of that period.

The July 2025 Re-Detention

31. In July 1, 2025, Mr. Podskarbi and his wife contacted immigration authorities to request permission to travel. Supervision responded and stated that he would need to appear in because an Officer Fimbres wanted to "do a check-in" prior to his departure. On July 2,

2025, his wife, as obligor, received a notice directing her to bring him on the same July 10 date provided by supervision. That document did not state that his liberty was at risk. It did not state that a detention decision had been made or was being contemplated. The process was framed as a standard appointment in connection with their travel inquiry. *See Robinson Decl., Exhibit F and G.*

32. On July 10, 2025, Mr. Podskarbi appeared at the scheduled appointment. After waiting many hours, he was taken into custody.

33. At the time of his detention, no violation of his release conditions was identified. The facts that the government now relies upon were known to it throughout the intervening five years. At no point during that period did the government take any action to revoke his bond or revisit his custody status

The Post Hoc Mandatory Detention Theory and Why It Cannot Cure the Re-Detention

34. Only after Mr. Podskarbi was in custody did Respondents advance a legal justification for detaining him. In a bond brief filed August 26, 2025, Respondents argued that he is subject to mandatory detention under INA § 236(c) based on his 2001 conviction in Poland for possession of approximately two grams of hashish and the sale of approximately five grams of amphetamine worth $50 USD. That conviction carried a fully suspended one-year sentence.

35. This conviction was known to immigration authorities when they issued his tourist visa in 2007. It was in his record when proceedings began in 2020. It was before the IJ who granted bond. It was available to the government throughout five years of supervised release. At none of those junctures did the government assert mandatory detention or try to revoke a judicial bond on this basis.

36. The mandatory detention theory, even if it could theoretically apply, does not cure the constitutional violation that had already occurred before it was raised. The due process question is whether the deprivation of liberty was lawful when it occurred. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). The government cannot retroactively validate that deprivation by identifying a legal theory it declined to pursue during the five years it had the opportunity to do so properly.

37. If the government believed in 2025 that mandatory detention applied, the appropriate procedure was to invoke that basis before taking his liberty, provide notice, and give him an opportunity to contest it before a neutral arbitar. It did not do so. The immigration court's subsequent acceptance of the mandatory detention argument in bond proceedings did not remedy the constitutional deficiency in the initial re-detention.

Petitioner's Ongoing Medical Emergency

38. Mr. Podskarbi has a documented history of psoriatic disease, specifically psoriasis and psoriatic arthritis, an autoimmune inflammatory condition. Prior to detention, he was receiving Cosentyx, a monthly biologic injection prescribed for moderate-to-severe psoriasis. That treatment has not been continued in detention. *See Robinson Decl. and Exhibit H.*

Beginning approximately in November of 2025, Mr. Podskarbi developed a severe and escalating full-body outbreak. The following encounters, which are illustrative and not exhaustive of the medical visits that have occurred, reflect a pattern of worsening condition and inadequate response, Petitioner provides some of the records he has been able to obtain from immigration authorities. *Id.*

Some of the medical notes include: [redacted] Staff reported they do not know the cause and would continue the same medications; facility had run out of medication and administered nothing. *Id.*

39. Throughout this period, Mr. Podskarbi has been treated with Benadryl (diphenhydramine), hydrocortisone, systemic steroids, and Benadryl injections, which are antihistamine and anti-inflammatory allergy medications. These are not treatments for psoriasis, which is an autoimmune condition requiring immune-modulating therapy. His condition has only worsened. Approximately three rounds of blood testing have been conducted with no results communicated and no diagnosis reached. As of the time of filing, he reports that condition has progressed to open wounds, and active bleeding.

40. Further, since his detention, has been diagnosed with scabies, a communicable infestation that flourishes in overcrowded conditions. His dormitory has expanded from approximately 54 to 76 individuals in a single housing unit. He is required daily to be outdoors in direct sunlight and high heat, conditions that are medically contraindicated for active psoriatic disease and inflamed, open skin. He has been taken to the medical unit at 2:00 and 3:00 a.m. for blood draws and check-ups, disrupting sleep that is already impaired by constant physical discomfort. These conditions serve no legitimate penological or regulatory purpose. They compound the harm of an already unlawful detention and confirm that confinement here functions as punishment.

41. Further, he has been detained since July which is now a period of 8 months.

The Humanitarian Consequences for Petitioner's Wife

42. Petitioner's spouse of over a decade is a United States citizen and thyroid cancer survivor who manages their household and their cleaning business alone since her husband's detention. Her most recent health evaluation yielded the following findings: [redacted]

[redacted]

43. The clinician documented [redacted]

[redacted] The family faces potential eviction.

LEGAL BACKGROUND

44. The Fifth Amendment prohibits the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. Freedom from imprisonment and physical restraint lies at the heart of the liberty that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This protection applies fully to noncitizens in removal proceedings. Id. at 693.

45. Immigration detention is civil and permissible only to the extent it serves regulatory purposes: ensuring appearance at proceedings and protecting the community from danger.

Id. at 690-92. Detention that does not serve those purposes, or that is imposed without adequate process, is unconstitutional. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

46. Due process requires both procedural and substantive compliance before the government may deprive a person of liberty. In the immigration context, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding restraint. *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). For such protections to comply with due process, the government must bear the burden to demonstrate by clear and convincing evidence that the noncitizen poses a flight risk or danger to the community. *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024).

47. Once the government grants conditional liberty and the person complies with its conditions, that liberty cannot be revoked arbitrarily. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). The liberty interest that arises from supervised release includes many of the core values of unqualified liberty and is entitled to protection. *Id.* Courts have specifically held that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination. *See Ortega v. ICE*, 415 F. Supp. 3d 966, 969-70 (N.D. Cal. 2019).

48. Where pre-deprivation process is feasible, the Constitution requires it. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). The constitutional question is whether the deprivation was lawful when it occurred, not whether a legal theory can be constructed to justify it afterward. *Id.*

49. Civil immigration detainees retain a constitutional right to adequate medical care meeting

at least the standard applicable to pretrial criminal detainees. *Gordon v. County of Orange*, 888 F.3d 1118, 1122-25 (9th Cir. 2018). The applicable standard is objective deliberate indifference to a serious medical need. Id. at 1125. A serious medical need is one that a reasonable doctor would find worthy of treatment, that significantly affects daily activities, or that causes chronic and substantial pain. *McGuckin v. Smith*, 974 F.2d 1050, 1059-60 (9th Cir. 1992).

I. THE GOVERNMENT EXTINGUISHED A SETTLED LIBERTY INTEREST WITHOUT NOTICE, THE OPPORTUNITY TO BE HEARD OR CHANGED CIRCUMSTANCES

50. Mr. Podskarbi was not simply released temporarily pending further review. He was released following a custody determination by the government that detention was not necessary. He then lived at liberty for more than five years under that determination, complying fully with every condition imposed upon him. That is not a transient or technical status.

51. The Supreme Court has made clear that once the government grants conditional liberty and the individual complies with the conditions of that release, that liberty cannot be revoked arbitrarily. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). The liberty interest is real, and it requires due process protection.

52. At the moment his liberty was extinguished, no violation of conditions was identified. No failure to appear was alleged. No change in circumstances was articulated. The facts that the government now relies upon, including decades-old criminal conduct, were known to immigration authorities in 2020 when they made the decision to release him. Due process

does not permit the government to revisit that determination years later, on the same facts, and revoke liberty without any intervening change.

II. PETITIONER'S DETENTION IS NOT REGULATORY AND BEARS NO REASONABLE RELATION TO ANY LEGITIMATE GOVERNMENT PURPOSE

53. Civil immigration detention is permissible only to serve regulatory purposes: ensuring appearance and protecting the community. *Zadvydas,* 533 U.S. at 690-92. Detention that does not serve those purposes is unconstitutional. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Neither purpose supports detention here.

54. For more than five years, Mr. Podskarbi demonstrated that he is not a flight risk. He complied with all reporting requirements. He appeared for all proceedings. Most significantly, he voluntarily presented himself to immigration authorities at the very appointment where he was detained. That conduct is incompatible with any claim that detention is necessary to ensure his appearance.

55. Moreover, Mr. Podskarbi has every incentive to continue complying with the law and engaging the legal process. He has a United States citizen spouse, an approved I-130, and a pending adjustment application. He has built a life, a business, and a community in Irvine over more than twenty-five years. The government cannot point to a single instance of flight, noncompliance, or avoidance in over five years of supervised release.

56. There is also no individualized determination that he poses a danger to the community. The government made that assessment in 2020 when it released him. There has been no intervening conduct to justify a different conclusion. The 2001 conviction involved two

grams of hashish and five grams of amphetamine worth $50, for which no incarceration was served and after which he completed drug rehabilitation decades ago.

57. The conditions and consequences of continued detention confirm that it serves no regulatory function. Mr. Podskarbi has a documented autoimmune skin disease that has gone without appropriate treatment for more than three months, producing open wounds, active bleeding, and scarring. He has contracted scabies in an overcrowded dormitory. He is sent into direct sunlight daily, worsening a condition the facility acknowledges it cannot diagnose. The facility has run out of his medications mid-course.

58. These are not incidental deprivations. They are the documented, ongoing consequences of confinement in this facility. Detention that produces escalating physical harm while serving no regulatory purpose is not civil regulation. The Constitution does not permit the government to punish through civil detention. *Zadvydas*, 533 U.S. at 690. Where, as here, detention inflicts harm without serving any non-punitive function, and where the detainee has demonstrated through years of conduct that neither flight nor danger justifies his confinement, continued detention cannot survive constitutional scrutiny

III. RESPONDENTS' DETENTION RESTS ON AN IMPERMISSIBLE POST HOC JUSTIFICATION, AND THE MANDATORY DETENTION THEORY ADVANCED AFTER THE FACT CANNOT CURE THE CONSTITUTIONAL VIOLATION THAT HAD ALREADY OCCURRED

59. At the time Mr. Podskarbi was taken into custody, Respondents did not identify a statutory basis for detention. They did not assert that he was subject to mandatory detention. He was detained, and only afterward did Respondents begin advancing the argument that he is subject to mandatory detention under INA § 236(c).

60. That sequence is not a procedural detail, but a constitutional violation. Due process requires that the government justify a deprivation of liberty at the time it occurs.

Zinermon, 494 U.S. at 127. It does not permit the government to detain first and construct a legal theory afterward. The question is not whether Respondents can now articulate a theory under which detention might be permissible. The question is whether the deprivation of liberty was lawful when it occurred. Because no justification was provided at that time and no process was afforded, the deprivation was unlawful from its inception.

61. The mandatory detention theory cannot retroactively cure that violation for an additional reason: the government had every opportunity to invoke it properly and declined to do so. If Respondents believed in 2025 that Mr. Podskarbi was mandatorily detainable under INA § 236(c), they could have appealed the IJ's 2020 bond order to the BIA. They did not. They could have moved to revoke his bond under 8 C.F.R. § 236.1(c)(9) at any point during five years of supervised release if they believed changed circumstances warranted it. They did not. Having declined to pursue mandatory detention through the procedures available to them, they cannot now invoke it as a retroactive justification for a deprivation that had already been completed without process.

62. The bond proceedings confirm no bond hearing can cure his unlawful detention. He has already sought and been denied release based on the mandatory detention theory Respondents' now advance. Petitioner sought a bond hearing following his re-detention. In that proceeding, Respondents relied on the same historical conduct and argued mandatory detention. The immigration court accepted detention as a given and did not address whether the re-detention itself was lawful. This demonstrates that the administrative process is incapable of addressing the constitutional question this petition presents.

IV. RESPONDENTS' RELIANCE ON DECADES-OLD CONDUCT, PREVIOUSLY KNOWN, PREVIOUSLY EVALUATED, AND PREVIOUSLY DEEMED INSUFFICIENT, IMPERMISSIBLY FUNCTIONS AS A

RETROACTIVE RECLASSIFICATION OF PETITIONER'S CUSTODY STATUS

63. Respondents now rely on criminal conduct from 2001 to argue that Petitioner is subject to mandatory detention. Those facts were known to the government in 2020. They were evaluated in 2020. Respondents now attempt to use those same facts, unchanged, to justify re-detention.

64. That is not a present-tense custody determination. It is a retroactive reclassification of Petitioner's status based on historical conduct that was already considered. Civil detention requires a current, individualized justification tied to regulatory purposes. It cannot be imposed through retrospective reweighing of facts that were already known and previously adjudicated in the custody context. *See Zadvydas*, 533 U.S. at 690-92.

65. The record confirms that this was not the basis for detention at the time it occurred. Petitioner was taken into custody when he voluntarily appeared for an appointment he had himself requested. No statutory basis was provided. No mandatory detention determination was made. Only later did Respondents advance this theory. That timing is dispositive. Because Respondents' current detention theory rests entirely on facts previously known, previously evaluated, and previously deemed insufficient to warrant detention, and because that theory was advanced only after Petitioner's liberty had already been extinguished, it cannot justify his continued detention.

V. EXHAUSTION IS NOT REQUIRED BECAUSE THE CLAIM CHALLENGES THE LAWFULNESS OF THE RE-DETENTION ITSELF AND ADMINISTRATIVE REVIEW IS INADEQUATE AND FUTILE

66. Petitioner does not seek review of a discretionary custody determination. He challenges the constitutional lawfulness of his re-detention itself. The immigration court and the Board of Immigration Appeals cannot adjudicate that question. They cannot determine

whether the initial deprivation of liberty was constitutional. They cannot restore Petitioner to his prior custody status as a remedy for that violation.

67. The bond proceedings confirm that structural limitation. The immigration court accepted detention as a given and did not address whether the re-detention itself was lawful. That is not a failure of presentation. It is a structural limitation inherent in the administrative framework. Further administrative proceedings would not remedy the violation. They would only prolong an ongoing unlawful detention while Petitioner's medical condition continues to deteriorate. Exhaustion of futile and inadequate remedies is not required. Hernandez v. Campbell, 204 F.3d 861, 866 (9th Cir. 2000).

VI. PETITIONER'S DETENTION HAS BECOME INDEPENDENTLY UNLAWFUL DUE TO ITS PROLONGED DURATION WITHOUT ADEQUATE PROCESS

68. Even setting aside the unlawfulness of the initial re-detention, Mr. Podskarbi's continued detention has now exceeded eight months and has become independently unconstitutional on the basis of duration alone. The Supreme Court has recognized that prolonged civil immigration detention raises serious constitutional concerns and identified six months as the presumptively reasonable period for civil detention pending removal. *Zadvydas*, 533 U.S. 678, 701 (2001). Beyond that period, the burden shifts and the government must affirmatively demonstrate that removal is reasonably foreseeable. *Id.*

69. Mr. Podskarbi has no final order of removal. He has a pending I-485 application, an approved I-130 petition through his United States citizen spouse, and a pending adjustment hearing.

70. The Ninth Circuit has further held that prolonged immigration detention without adequate procedural protections independently implicates due process. Where detention becomes prolonged, the government must provide a bond hearing at which it bears the burden of

demonstrating by clear and convincing evidence that continued detention is justified. *Diouf v. Napolitano*, 634 F.3d 1081, 1091-92 (9th Cir. 2011); see also *Rodriguez v. Robbins*, 804 F.3d 1060, 1087-90 (9th Cir. 2015), rev'd on other grounds sub nom. *Jennings v. Rodriguez*, 583 U.S. 281 (2018). No such hearing has been meaningfully conducted here. The only bond proceeding that occurred was one in which the immigration court accepted mandatory detention as a given, placed the burden on Petitioner rather than the government, and did not evaluate the constitutional adequacy of the process through which he was re-detained.

71. Eight months of detention of a person with no final removal order, no flight history, and no new criminal conduct, accompanied by documented and worsening medical deterioration, falls well outside any reasonable understanding of permissible civil regulatory confinement. *See Zadvydas*, 533 U.S. at 690 (detention that bears no reasonable relation to a regulatory purpose is constitutionally impermissible). The duration and conditions of Petitioner's confinement independently require this Court's intervention regardless of how the threshold re-detention question is resolved.

VII. HABEAS RELIEF IS REQUIRED TO RESTORE THE STATUS QUO ANTE AND PREVENT ONGOING IRREPARABLE HARM

72. Petitioner is in custody in violation of the Constitution and is entitled to habeas relief under 28 U.S.C. § 2241. The violation is ongoing. The harm is ongoing. Mr. Podskarbi's medical condition continues to deteriorate. He has developed a severe dermatological condition, contracted scabies in detention, and has not received effective treatment despite repeated medical encounters. His wife is experiencing severe psychological decline, including clinically documented suicidal ideation, directly tied to his detention.

73. These are not speculative harms. They are present and escalating. The appropriate remedy

is immediate release restoring the status quo ante: his prior release under supervision under the IJ's bond order, without the imposition of additional restrictive conditions. Absent that relief, the constitutional violation will continue and the harm will worsen.

74. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and procedural. "[t]he touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective." *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

75. These protections extend to noncitizens facing detention, as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

76. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. See Jackson v. Indiana, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community.*Id.*; see also *Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

77. The procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

78. Generally, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

79. After an initial release from custody on conditions, even a person paroled following a conviction for a criminal offense for which they may lawfully have remained incarcerated has a protected liberty interest in that conditional release. *Morrissey* at 408 U.S. at 482. As the Supreme Court recognized, "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." Id. "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." Id.

80. Moreover, where ICE has elected to release a noncitizen under supervision, that grant of liberty creates a protected interest. Revocation of release requires notice, a meaningful opportunity to respond, and adjudication before a neutral decisionmaker. *See Morrissey v. Brewer,* 408 U.S. 471 (1972); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019).

81. District courts within the Ninth Circuit have recognized that once DHS grants release under supervision, the noncitizen has a protected liberty interest in continued freedom and is entitled to constitutionally adequate process before that liberty is revoked. *See Ortega v.*

Bonnar, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (citing *Morrissey v. Brewer*, 408 U.S. 471 (1972)).

82. Recently, the Eastern District of California granted emergency relief where ICE re-detained an asylum seeker previously released on recognizance, holding that pre-deprivation notice and a hearing were constitutionally required and that post-deprivation remedies were inadequate. *David G.M. v. Chestnut*, No. 1:26-cv-00369-TLN-CSK, Order Granting TRO (E.D. Cal. Jan. 17, 2026) (citing, inter alia, *Manzanarez v. Bondi*, No. 1:25-CV-01536-DC-CKD (HC), 2025 WL 3247258, at *4 (E.D. Cal. Nov. 20, 2025); *Tapia v. Smith*, No. CV 25-00379 SASP-KJM, 2025 WL 2950089, at *8 (D. Haw. Oct. 10, 2025); *Aceros v. Kaiser*, No. 25-CV-06924-EMC, 2025 WL 2637503, at *6 (N.D. Cal. Sept. 12, 2025); *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14, 2025)).

83. Petitioner defines *status quo ante* as without GPS monitoring as he was not subject to that requirement at the time of his detention and to now impose it is also unduly punitive.

FIRST CAUSE OF ACTION

VIOLATION OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION (SUBSTANTIVE DUE PROCESS – DETENTION)

84. Petitioner re-alleges and incorporates each allegation contained herein.

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

86. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

87. Petitioner is not a flight risk or a danger to the community. He has resided in the United States for over twenty-five years. He complied fully with every obligation under his bond release from 2020 until his re-detention in July 2025. He has a United States citizen spouse. He has a pending adjustment of status application with an approved I-130. He has a demonstrated record of more than five years of full compliance while released. He has every incentive to continue engaging the legal process.

88. Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment. Petitioner's arbitrary re-detention after a lengthy period of compliance while released, without notice, without a reasoned revocation decision, and without any showing of changed circumstances, shocks the conscience and violates substantive due process. *See Chhoeun v. Marin*, 306 F. Supp. 3d 1147, 1160-61 (C.D. Cal. 2018) (recognizing due process limits on arbitrary immigration detention).

89. Moreover, Petitioner's detention is punitive in that it bears no reasonable relation to any legitimate government purpose. Id. (finding immigration detention is civil and thus ostensibly nonpunitive in purpose and effect).

90. Prolonged civil detention for a period of over six months is punitive in violation of substantiative due process when (1) the duration of the detention exceeds the bounds permitted by due process to achieve the limited purposes of civil confinement, (2) a person poses no significant risk of flight or danger to the community or (3) restrictions short of physical custody are sufficient to mitigate any risk a detained person poses.

91. Petitioner's prolonged detention violates substantive due process.

SECOND CAUSE OF ACTION

VIOLATION OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION (PROCEDURAL DUE PROCESS – DETENTION)

92. Petitioner re-alleges and incorporates each allegation contained herein.

93. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after his release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey*, 408 U.S. at 482–83; *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination).

94. In the context of immigration detention, due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint. *Hernandez v. Sessions*, 872 F.3d at 990; *Zinermon,* 494 U.S. at 127. For such protections to comply with due process, the government must bear the burden to demonstrate by clear and convincing evidence that the noncitizen poses a flight risk or danger to the community. *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024).

95. Petitioner's re-detention without pre-deprivation notice and a hearing before a neutral decisionmaker violated procedural due process. Following more than five years of full compliance with the terms of his bond release, Respondents revoked that liberty without notice, without explanation, and without any opportunity to contest the revocation before

being taken into custody. The only prior communication Petitioner received was a notice to his wife as obligor directing him to appear for an interview; that document did not state that detention was contemplated or that his liberty was at risk.

96. The IJ's subsequent application of mandatory detention grounds stripped any Immigration Judge of authority to release Petitioner on bond, eliminating the only avenue for review of his custody status within the immigration court framework. See 8 C.F.R. § 1003.19(h)(2)(i)(B). Mandatory detention in the Southern District does mean in perpetuity as there is no known end to the timeline for Petitioner. Meanwhile his health is actively and rapidly deterioriating.

97. Petitioner has a profound personal interest in his liberty. *See Fernandez Lopez v. Wofford*, 2025 WL 2959319, at *4 (E.D. Cal. Oct. 17, 2025) (finding a noncitizen has a liberty interest in his conditional release and an implicit right to remain at liberty if he complies with the conditions of release); *Abduraimov v. Andrews*, 2025 WL 2912307, at *6 (E.D. Cal. Oct. 14, 2025) (finding a legitimate and reasonably strong private liberty interest in supervised release); *Noori v. Larose*, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025); *Ramirez Tesara v. Wamsley*, 2025 WL 2637663, at *3 (W.D. Wash. Sept. 12, 2025) (finding that liberty interest did not expire with release agreement); *Y-Z-L-H- v. Bostock*, 2025 WL 1898025, at *14 (D. Or. July 9, 2025) (ordering immediate release of detainee who had not completed asylum process.

98. Because Petitioner received no procedural protections, the risk of erroneous deprivation is high. When Respondents released Petitioner in 2020, they determined that he was not a flight risk or a danger to the community. Prior to his re-detention in July 2025, Petitioner had no notice of Respondents' intention to re-detain him and no opportunity to contest that action.

99. Because the private interest in freedom from immigration detention is substantial, due process requires the government to bear the burden of proving by clear and convincing evidence that Petitioner is a flight risk or danger to the community before re-detaining him. *See Fernandez Lopez*, 2025 WL 2959319 at *8; *Abduraimov*, 2025 WL 2912307 at *9; *Mata Velasquez v. Kurzdorfer*, 2025 WL 1953796, at *17 (W.D.N.Y. July 16, 2025) (detention of released noncitizen without a reasoned explanation or changed circumstances and without a meaningful opportunity to be heard violates due process).

100. The government's interest in detaining Petitioner without notice, reasoning, and a hearing is low. *See Pinchi v. Andrews*, 792 F. Supp. 3d 1028, 1036 (E.D. Cal. 2025) ("[T]he government has articulated no legitimate interest that would support arresting [petitioner] without a predetention hearing."); *Alvarenga Matute v. Wofford*, No. 1:25-CV-01206-KES-SKO (HC), 2025 WL 2817795, at *6 (E.D. Cal. Oct. 3, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) ("If the government wishes to re-arrest [petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low.").

101. There is no indication that providing proper notice, reasoning, and a pre-deprivation hearing would be fiscally or administratively burdensome on the government. *Pinchi,* 792 F. Supp. 3d at 1036 ("In immigration court, custody hearings are routine and impose a minimal cost." (quoting *Singh v. Andrews*, No. 1:25-CV-00801-KES-SKO (HC), 2025 WL 1918679, at *8 (E.D. Cal. July 11, 2025))). Nothing in Petitioner's record suggests he would abscond or endanger the community. *See Vargas v. Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (finding that the government's concern about flight risk was unsubstantiated given petitioner's strong family ties).

THIRD CAUSE OF ACTION

VIOLATION OF THE FOURTH AMENDMENT TO THE CONSTITUTION

(UNLAWFUL ARREST)

102. Petitioner re-alleges and incorporates each allegation contained herein.

103. The Fourth Amendment protects the right of persons present in the United States to be free from unreasonable seizures by government officials.

104. As a corollary to that right, the Fourth Amendment prohibits government officials from conducting repeated arrests on the same probable cause: "[I]t is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable …[T]he primary purpose of an arrest is to ensure the arrestee appears to answer charges …Once the arrestee appears before the court, the purpose of the initial seizure has been accomplished. Further seizure requires a court order or new cause; the original probable cause determination is no justification." *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) (cleaned up).

105. In the immigration context, this prohibition means that a person who immigration authorities released from initial custody cannot be rearrested "solely on the ground that he is subject to removal proceedings" and without some new, intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff'd sub nom.*, *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could result in "harassment by continual rearrests." *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971).

106. Petitioner appeared at the July 10, 2025, appointment. That pre-existing

knowledge forecloses any claim that it constitutes a new, intervening cause justifying re-arrest. The government's continued scheduling and conduct of check-ins and appointments with Petitioner throughout five years of compliance reflects a continued determination that his release conditions remained appropriate.

107. Petitioner's re-arrest and detention by Respondents after he had already been released and following more than five years of full compliance, absent any material change in circumstances, constitutes an unreasonable seizure in violation of the Fourth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue a Temporary Restraining Order ordering Respondents to immediately release Petitioner from custody and return him to the status quo ante, which is the conditions immediately prior to his detention without **without GPS monitoring**;
3. Return Petitioner's lawfully obtained work permit and any other identity documents in their possession;
4. Grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release from custody;
5. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment and the Fourth Amendment;
6. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of

proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

7. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any further basis justified under law;

8. Grant such further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED this 24th day of March, 2026

/s/ Emily L. Robinson
Law Office of Emily L. Robinson
5012 Eagle Rock Blvd Los Angeles, CA 90041
(O) (323) 524-7611
Emily@lawofficeemilyrobinson.com

VERIFICATION

I, Emily L. Robinson, declare as follows:

I am an attorney admitted to practice law in the State of California.

Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioners, I am making this verification on their behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 24, 2026.

/s/ Emily L. Robinson

Law Office of Emily L. Robinson
5012 Eagle Rock Blvd Los Angeles, CA 90041
(O) (323) 524-7611
Emily@lawofficeemilyrobinson.com

Attorney for Petitioner