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10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 Amir BAHRAMIAN,

13 Petitioner,

14 v.
15

16 Christopher J. LAROSE, Warden, Otay
17 Mesa Detention Center;
18 Daniel A. BRIGHTMAN, Field Office
19 Director, San Diego Field Office, United
20 States Immigration and Customs
21 Enforcement;
22 Todd M. LYONS, Acting Director,
23 United States Immigration and Customs
24 Enforcement;
25 Markwayne MULLIN, Secretary of
26 Homeland Security;
27 Pamela Jo BONDI, Attorney General, in
28 their official capacities,

Respondents.

Case No.: '26CV2053 DMS JLB

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS**

1 Petitioner [Petitioner’s Full Name] petitions this Court for a writ of habeas
2 corpus under 28 U.S.C. § 2241 to remedy Respondents’ detaining him unlawfully,
3 and states as follows:

4 **INTRODUCTION**

5 1. Petitioner Amir Bahramian is a noncitizen from Iran who was
6 previously released from immigration custody but was abruptly re-detained and
7 jailed for no legitimate reason at the conclusion of his March 2, 2026,
8 Immigration Court hearing in San Diego. His re-detention occurred inside or
9 immediately outside an EOIR immigration courtroom, which is expressly excluded
10 from ICE’s May 27, 2025 memorandum governing “Civil Immigration
11 Enforcement Actions In or Near Courthouses,” underscoring that his arrest was
12 not part of any courthouse-enforcement initiative contemplated by that policy.

13 2. The Department of Homeland Security necessarily determined that he
14 was neither a flight risk nor a danger to the community when it previously
15 released him following his initial Border Patrol apprehension near Otay Mesa,
16 California on November 28, 2023.

17 3. Petitioner has no criminal history of any kind. Nor does Petitioner,
18 who has dutifully attended his hearings in his ongoing removal proceedings,
19 present risk of flight that justify re-detention. Yet ICE continues to unlawfully
20 detain him in prison-like conditions, keeping him separated from his community
21 and his ability to work.

22 4. Petitioner Amir Bahramian is a noncitizen from Iran who was
23 previously released from immigration custody but was abruptly re detained and
24 jailed for no legitimate reason at the conclusion of his March 2, 2026,
25 Immigration Court hearing in San Diego. The Department of Homeland Security
26 necessarily determined that he was neither a flight risk nor a danger to the
27 community when it previously released him following his initial Border Patrol
28 apprehension near Otay Mesa, California.

1 5. Petitioner’s detention under these circumstances violates his right to
2 substantive and procedural Due Process, as it is not justified by a legitimate
3 government purpose. Additionally, under *Mathews v. Eldridge*, 424 U.S. 319
4 (1976), his fundamental liberty interest far outweighs the government’s interest
5 in detaining him, and the risk of error is great where, as here, there has been no
6 pre-deprivation process to ensure his loss of liberty is justified. For similar
7 reasons, his detention also contravenes the Immigration and Nationality Act (INA)
8 and the Administrative Procedure Act (APA), thereby violating the doctrine laid
9 out in *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

10 6. After his arrest in Immigration Court, ICE officers transported
11 Petitioner in handcuffs to the basement holding cells at 880 Front Street in San
12 Diego, where they held him overnight in extremely cold conditions without a
13 blanket, providing him only a cold sandwich to eat and severely restricting access
14 to drinking water—conditions so dire that Petitioner recalls being so thirsty he
15 contemplated drinking from the toilet. The cell was overcrowded, with
16 approximately eight to nine people sharing a single bathroom. The cold
17 conditions caused Petitioner significant physical pain, including pain in his
18 kidneys. During this overnight detention, ICE officers transferred him to an
19 unknown location for three to four hours before returning him to the Front Street
20 basement cells. Petitioner was given limited access to a phone and used the
21 opportunity to call a friend and co-worker to inform him of what had happened
22 and to relay a message to his wife in Iran should she attempt to contact him.
23 Throughout this entire period, Respondents provided no explanation of any
24 alleged change in circumstances since his prior release

25 7. After this overnight detention in the federal building basement, ICE
26 transferred Petitioner to Otay Mesa Detention Center in San Diego County,
27 California. Petitioner was arrested immediately following his March 2, 2026,
28 Immigration Court hearing and, after being held overnight at 880 Front Street

1 and briefly transferred to an unknown location, he was brought to OMDC
2 approximately one and a half days later. He recalls arriving at OMDC in the
3 evening, when other detained individuals were already asleep, and based on this
4 timing he believes he arrived at OMDC on the evening of March 3, 2026. Since
5 that time, he has remained detained at OMDC with no recourse to seek release
6 because Respondents assert that current agency policies render him ineligible for
7 bond.

8 8. Respondents have never articulated, in any contemporaneous
9 document or operational plan, that Petitioner fit within any of the
10 enforcement-priority categories listed in the May 27, 2025
11 courthouse-enforcement memorandum—such as national-security threats, gang
12 members, or individuals with criminal convictions or prior removal orders—
13 further confirming that his arrest was not a targeted “courthouse” action but an
14 unlawful re-detention of a previously released, low-priority noncitizen.

15 9. Accordingly, Petitioner seeks his release and challenges his detention
16 as a violation of the Due Process Clause of the Fifth Amendment, the INA and the
17 APA.

18 10. Petitioner respectfully requests that this Court issue the Writ of
19 Habeas Corpus commanding Respondents to release him from custody and enjoin
20 Respondents from re-detaining him without notice to his counsel and a pre-
21 deprivation hearing before a neutral decision-maker at which Respondents must
22 prove material changes in circumstances justify re-detention. Petitioner seeks that
23 relief under the federal habeas statute, 28 U.S.C. § 2241, which is the proper
24 vehicle for challenging civil immigration detention. *See Doe v. Garland*, 109 F.4th
25 1188, 1194 (9th Cir. 2024) (noting that a noncitizen’s challenge to his present
26 confinement falls within the “core of habeas”).

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1 **CUSTODY**

2 11. Petitioner Amir Bahramian is currently in Respondents' legal and
3 physical custody. They are detaining him at Otay Mesa Detention Center in San
4 Diego County, California. He is under Respondents' and their agents' direct
5 control.

6 **JURISDICTION**

7 12. This Court has jurisdiction to consider this habeas petition complaint
8 under 28 U.S.C. § 1331; 28 U.S.C. § 2241; the Due Process Clause of the Fifth
9 Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I,
10 2.

11 **VENUE**

12 13. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C.
13 § 2242 because at least one Respondent is in this District, Petitioner is detained in
14 this District, Petitioner's immediate physical custodian is located in this District,
15 and a substantial part of the events giving rise to the claims in this action have
16 taken place in this District.

17 **PARTIES**

18 14. Petitioner Amir Bahramian is a 41-year-old national and citizen of
19 Iran currently detained at Otay Mesa Detention Center, an immigration detention
20 facility in San Diego County, California. He has been in ICE custody since on or
21 about March 2, 2026, following his re-detention at his individual calendar hearing
22 in the San Diego Immigration Court, and he has a timely appeal pending before
23 the Board of Immigration Appeals from the Immigration Judge's denial of his
24 applications for asylum, withholding of removal, and CAT protection.

25 15. Respondent Christopher J. LaRose is the Senior Warden at the Otay
26 Mesa Detention Center, where Petitioner is being held. Respondent Larose is
27 Petitioner's immediate custodian. Petitioner sues him in his official capacity.
28


1 16. On information and belief, Respondent Daniel A. Brightman is the
2 current Field Office Director responsible for the San Diego Field Office of ICE with
3 administrative jurisdiction over Petitioner’s immigration case. He is a Petitioner’s
4 legal custodian. Petitioner sues him in his official capacity.

5 17. Respondent Todd M. Lyons is the Acting Director of ICE. ICE is a
6 component of the U.S. Department of Homeland Security, 6 U.S.C. § 271, and an
7 “agency” within the meaning of the Administrative Procedure Act, 5 U.S.C.
8 § 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is
9 detaining Petitioner. Respondent Lyons has custodial authority over Petitioner,
10 who names him in his official capacity.

11 18. Respondent Markwayne Mullin is the Secretary of the DHS. DHS is
12 the federal agency responsible for enforcing immigration laws and granting
13 immigration benefits. *See* 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent Mullin
14 has ultimate custodial authority over Petitioner, who names him in his official
15 capacity.

16 19. Respondent Pam Bondi is the Attorney General of the United States.
17 She is responsible for the Immigration and Nationality Act’s implementation and
18 enforcement (*see* 8 U.S.C. §§ 1103(a)(1), (g)) and oversees the Executive Office
19 for Immigration Review. Petitioner names her in her official capacity.

20 **STATEMENT OF FACTS**

21 20. Petitioner is a 41-year-old national and citizen of Iran and an ethnic
22 Kurd, born in  in Iran.

23 21. On or about November 23, 2023, Petitioner entered the United States
24 at or near Otay Mesa, California. He entered without inspection, seeking safety
25 from the Iranian government because of its targeting of him due to his perceived
26 political opposition and work for critics of the regime.

27 22. Border Patrol apprehended Petitioner on November 24, 2023.
28 Following his apprehension, Petitioner was detained in Border Patrol/ICE custody

1 for approximately four days before being released from immigration custody on
2 his own recognizance.

3 23. Upon entering the United States, have been living at liberty in San
4 Diego County ever since.

5 24. Petitioner was placed in removal proceedings in the San Diego
6 Immigration Court.

7 25. After his release, Petitioner relocated to Escondido in San Diego
8 County, California, where he lived at liberty under immigration supervision until
9 his re-detention on March 2, 2026. During this entire period, Petitioner had no
10 ICE check-in or other supervisory reporting obligations, and he remained fully
11 law-abiding and respectful of U.S. laws, attending all of his Immigration Court
12 hearings as scheduled.

13 26. Thereafter, in February 2024, Petitioner, through counsel, filed
14 applications for asylum, withholding of removal, and CAT protection based on his
15 perceived political opinion, Kurdish ethnicity, and prior targeting by Iranian
16 authorities related to his printing work for regime critics.

17 27. Petitioner's counsel withdrew representation prior to his continued
18 individual hearing on March 2, 2026.

19 28. While at liberty in Escondido, Petitioner obtained an employment
20 authorization in December 2024, and worked as a handyman in San Diego
21 County to financially support himself.

22 29. Petitioner consistently appeared for his immigration court hearings
23 and complied with all known immigration obligations.

24 30. He has no criminal history in the United States or any other country in
25 the world.

26 31. On March 2, 2026, an Immigration Judge held Petitioner's individual
27 calendar hearing in the San Diego Immigration Court and issued an oral decision
28

1 denying his applications for asylum, withholding, and CAT, finding that his life
2 would not be at risk if he were returned to Iran, and ordered him removed.

3 32. Petitioner received no notice that ICE intended to revoke his prior
4 release, no written explanation of any alleged change in circumstances, and no
5 opportunity to present evidence regarding flight risk or danger before being
6 deprived of his liberty. No bond hearing or custody redetermination hearing was
7 provided before or after his re-detention.

8 33. Nor did Respondents show that he falls into any of the limited
9 categories of “targeted aliens” identified in the courthouse-enforcement
10 memorandum—such as individuals with criminal convictions, gang members, or
11 prior removal orders who have unlawfully re-entered—highlighting that his arrest
12 in Immigration Court was not the kind of courthouse enforcement action
13 contemplated by that internal guidance.

14 34. ICE initially confined Petitioner for one and a half days in the
15 basement holding cells at 880 Front Street in San Diego before transferring him to
16 Otay Mesa Detention Center, where he remains detained.

17 35. Petitioner timely appealed the IJ’s decision to the Board of
18 Immigration Appeals, on or about March 25, 2026. As of the filing of this petition,
19 the BIA has not issued a briefing schedule and no brief due dates exist for either
20 Petitioner or DHS, so his removal order is not administratively final.

21 36. Despite Petitioner’s prior release, long-standing residence in
22 Escondido, clean criminal record, and pending BIA appeal, Respondents have not
23 conducted any individualized determination demonstrating that a material change
24 in circumstances warrants his re-detention.

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1 contrary to Due Process a deterrence policy pursuant to which DHS detained “one
2 particular individual” for purposes of “sending a message of deterrence to other[s]
3] who may be considering immigration” (citing *Kansas v. Crane*, 534 U.S. 407,
4 412 (2002)).

5 42. All such detentions would be unlawful because they bear no
6 reasonable relation to a legitimate government purpose. *See id.*; *Demore v. Kim*,
7 538 U.S. 510, 532–33 (Kennedy, J., concurring); *Kansas v. Hendricks*, 521 U.S.
8 346, 361–62 (1997); *Bell v. Wolfish*, 441 U.S. 520, 539 (1979).

9 **Procedural Due Process Constraints on the Detention of an Individual Who
Was Previously Released**

10 43. Procedural Due Process ensures that no persons are deprived of their
11 liberty absent a fair process. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976),
12 courts evaluate procedural Due Process by balancing (1) the private interest
13 affected; (2) the risk of erroneous deprivation of such interest; and (3) the
14 government’s interest. *Id.* at 335.

15 44. “[T]he liberty [of a person released from government custody] is
16 valuable and must be seen as within the protection of the [Due Process Clause].”
17 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

18 45. “[E]ven when ICE has the initial discretion to detain or release a
19 noncitizen pending removal proceedings, after that individual is released from
20 custody she has a protected liberty interest in remaining out of custody.” *Pinchi v.*
21 *Noem*, 792 F. Supp 3d 1025, 1032 (N.D. Cal. 2025) (citing *Romero v. Kaiser*, No.
22 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022); *Jorge M. F. v.*
23 *Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021);
24 *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *3 (N.D. Cal. Aug.
25 23, 2020); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)).

26 46. Courts in this district have joined a growing chorus of district courts
27 that have recognized that noncitizens have a significant liberty interest in both
28 “continued freedom *after release on own recognizance*,” *Alegria Palma v. Larose*,

1 No. 25-cv-1942-BJC-MMP, ECF No. 14, at *6 (S.D. Cal. Aug. 11, 2025) (emphasis
2 added), and in “freedom from imprisonment” after “the government grants a
3 [noncitizen] parole into the country,” *Sanchez v. LaRose*, No. 25-CV-2396-JES-
4 MMP, 2025 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025) (emphasis added). *See*
5 *also Prieto-Cordova*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov.
6 19, 2025); *Faizyan v. Casey*, No. 25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D.
7 Cal. Nov. 17, 2025); *Ramazan M. v. Andrews*, No. 25-cv-01356-KES-SKO (HC),
8 2025 WL 3145562 (E.D. Cal. Nov. 20, 2025); *Gomez Vilela v. Robbins*, No. 25-cv-
9 01393-KES-HBK (HC), 2025 WL 3101334 (E.D. Cal. Nov. 6, 2025); *Pablo Sequen*
10 *v. Albarran*, No. 25-cv-06487-PCP, 2025 WL 2935630 (N.D. Cal. Oct. 15, 2025);
11 *Hyppolite v. Noem*, No. 24-cv-4304 (NRM), 2025 WL 2829511 (E.D. N.Y. Oct. 6,
12 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex.
13 Sept. 22, 2025); *Ramirez Tesara v. Wamsley*, No. 25-cv-01723-M JP-TLF, 2025 WL
14 2637663 (W.D. Wash. Sept. 12, 2025); *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE,
15 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).

16 47. “Where, as here, [the petitioner] has not received any bond or custody
17 . . . hearing, the risk of an erroneous deprivation [of liberty] is high because
18 neither the government nor [the petitioner] has had an opportunity to determine
19 whether there is any valid basis for her detention.” *Pinchi*, 792 F. Supp 3d at 1035
20 (citing *Singh v. Andrews*, No. 1:25-CV-00801, 2025 WL 1918679 (E.D. Cal. July
21 11, 2025)) (cleaned up). Indeed, where a petitioner “was previously released
22 following a determination that he posed no flight risk or danger to the
23 community, and absent any new evidence showing a material change in
24 circumstances, the risk of erroneous detention without a hearing is substantial.”
25 *Alegria Palma*, No. 25-cv-1942-BJC-MMP at *6 (ordering petitioner’s immediate
26 release where he was re-detained without pre-deprivation hearing).

27 48. The requirement of an individualized determination is even stronger
28 in cases of re-detention because the prior “[r]elease reflects a determination by

1 the government that the noncitizen is not a danger to the community or a flight
2 risk.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub*
3 *nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). “[T]o be lawful”
4 the re-detention “must be based on evidence that the circumstances relevant to
5 that original release decision have changed.” *Saravia*, 280 F. Supp. 3d at 1196.

6 49. “To satisfy due process, those changed circumstances must represent
7 individualized legal justification for detention.” *Sanchez v. LaRose*, No. 25-CV-
8 2396-JES-MMP, 2025 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025) (internal
9 citations omitted)).

10 50. The government can claim no interest in re-detention where there are
11 no changed circumstances going to flight risk or danger sufficient to warrant re-
12 detention. *See Pinchi*, 792 F. Supp 3d at 1036 (“The government does not claim
13 that any material circumstances have changed that would warrant reassessment
14 of Ms. Garro Pinchi’s risk of flight or dangerousness, and it has articulated no
15 other reason for her detention.”). Even if the government asserted the existence of
16 such changed circumstances, its interest in denying a pre-deprivation hearing to
17 prove that claim is negligible, particularly because custody hearings are a routine
18 practice for immigration courts. Compared to the “staggering” “costs to the public
19 of immigration detention,” *Hernandez*, 872 F.3d at 996, “[t]he effort and cost
20 required” of providing a hearing “is minimal.” *Doe v. Becerra*, 787 F. Supp. 3d
21 1083, 1094 (E.D. Cal. 2025).

22 51. Thus, detention absent a pre-deprivation hearing establishing that
23 changed circumstances justify re-detention violates procedural Due Process.

24 **The Statutory Framework Governing Petitioner’s Detention**

25 52. Petitioner is detained pursuant to 8 U.S.C. 1226(a), which provides, in
26 pertinent part, that

27 On a warrant issued by the Attorney General, a [noncitizen] may be
28 arrested and detained pending a decision on whether the [noncitizen]
is to be removed from the United States. Except as provided in
subsection (c) and pending such decision, the Attorney General--

- 1 (1) may continue to detain the arrested [noncitizen]; and
- 2 (2) may release the [noncitizen] on--
- 3 (A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
- 4 (B) conditional parole.

5 53. Section 1226(a) governs the detention of noncitizens “inside the
6 United States” and “present in the country.” *Jennings v. Rodriguez*, 583 U.S. 281,
7 288–89 (2018).

8 54. Section 1225(b)(2), in contrast, authorizes the detention of applicants
9 for admission who are “seeking admission” but “not clearly and beyond a doubt
10 entitled to be admitted.” Unlike section 1226(a), section 1225(b)(2) provides that
11 individuals who fall under its authority “shall be detained” during the pendency of
12 proceedings, though they too remain eligible for release through the parole
13 process. *Jennings*, 583 U.S. at 300 (holding that release on “parole” under 8
14 U.S.C. § 1182(d)(5)(A) remains available even for people held under otherwise-
15 mandatory detention pursuant to section 1225(b)).

16 55. Petitioner was unquestionably detained in the interior of the country
17 at Otay Mesa Detention Center, over two years after initially entering the United
18 States; thus, he was not “seeking admission” at the time of his re-detention, so his
19 detention is governed by section 1226(a). *See, e.g., Esquivel-Pina v. Larose*, No. 25-
20 CV-2672 JLS (BLM), 2025 WL 2998361, at *5 (S.D. Cal. Oct. 24, 2025); *Garcia v.*
21 *Noem*, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *6 (S.D. Cal. Sept. 3,
22 2025); *Mosqueda v. Noem*, No. 25-cv-2304, 2025 WL 2591530, at *5 (C.D. Cal.
23 Sept. 8, 2025).

24 56. Immigration detention “has two regulatory goals: ensuring the
25 appearance of [noncitizens] at future immigration proceedings and preventing
26 danger to the community.” *Zadvydas*, 533 U.S. at 678 (internal citations omitted);
27 *see also* 8 U.S.C. § 1226(a), (b); 8 C.F.R. § 1236.1(c)(8).

28 57. Those previously released by DHS, like Petitioner, have necessarily
been deemed neither a flight risk nor a danger. 8 C.F.R. § 1236.1 (c)(8)

1 (authorizing release of noncitizens under section 1226(a) if they “would not pose
2 a danger to property or persons,” and are “likely to appear for any future
3 proceeding”); 8 C.F.R. § 212.5(b) (authorizing parole from custody of noncitizens
4 deemed “neither a security risk nor a risk of absconding”).

5 58. In cases of individuals previously released by DHS, re-detention under
6 section 1226(a) requires an individualized determination of a material change in
7 circumstances relating to flight risk or danger. *See Ortega*, 415 F.Supp.3d at 968
8 (“DHS re-arrests individuals only after a ‘material’ change in circumstances.”
9 (citing *Saravia*, 280 F.Supp.3d at 1197)); *see also Matter of Sugay*, 171 I&N Dec.
10 637, 640 (B.I.A. 1981) (“[W]here a previous bond determination has been made
11 by an immigration judge, no change should be made by [DHS] absent a change of
12 circumstance.”).

13 59. Absent a material change in circumstances, the re-detention of
14 noncitizens previously released by DHS violates the INA because it does not serve
15 the purpose of the statute.

16 **Administrative Procedure Act**

17 60. Under the APA, courts may set aside agency action that is contrary to
18 law or constitutional right. 5 U.S.C. § 706(2).

19 61. In order to be reviewable under the APA, the challenged action must
20 constitute final agency action, which includes “the whole or a part of an agency
21 rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure
22 to act.” 5 U.S.C. § 551(13).

23 62. Petitioner’s detention occurred pursuant to reviewable agency action.
24 Specifically, ICE’s San Diego Field Office has adopted a policy pursuant to which it
25 claims authority to arrest and detain all noncitizens who it alleges are not lawfully
26 present in the United States, without regard for whether they are a flight risk or
27 danger. Such a policy marks the “consummation” of the ICE’s decision-making
28 process and is an action “by which rights or obligations have been determined, or

1 from which legal consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 178
2 (1997) (internal citations omitted).

3 63. “[A]gency action . . . need not be in writing to be final and judicially
4 reviewable . . . [a]n unwritten policy can still satisfy the APA’s pragmatic final
5 agency action requirement.” *Al Otro Lado, Inc. v. McAleenan*, 394 F. Supp. 3d
6 1168, 1206–07 (S.D. Cal. 2019) (internal citations omitted). “[A] contrary rule
7 would allow an agency to shield its decisions from judicial review simply by
8 refusing to put those decisions in writing.” *Id.* at 1207 (internal citations omitted).

9 64. Additionally, ICE’s decisions to re-detain Petitioner constitutes final
10 agency action because the re-detentions mark the “consummation” of the ICE’s
11 decision-making process on the question of Petitioner’s custody, and it is an action
12 “by which rights or obligations have been determined, or from which legal
13 consequences will flow.” *Bennett*, 520 U.S. at 178 (internal citations omitted).
14 Indeed, the “practical and legal effects of the agency action” are that Petitioner
15 has been deprived of his liberty for over two months and with no end in sight. *Or.*
16 *Natural Desert Ass’n v. U.S. Forest Service*, 465 F.3d 977, 982 (9th Cir. 2006).

17 65. Courts must “hold unlawful and set aside agency actions, findings and
18 conclusions” that are (a) arbitrary, capricious, an abuse of discretion, or otherwise
19 not in accordance with the law; (b) contrary to constitutional right, power,
20 privilege or immunity; (c) in excess of statutory jurisdiction, authority, or
21 limitations, or short of statutory right; or (d) without observance of procedures
22 required by law. 5 U.S.C. § 706(2).

23 66. Final agency action is arbitrary and capricious if the agency fails to
24 “articulate a satisfactory explanation for its action, including a rational connection
25 between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of U.S. v.*
26 *State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal citations
27 omitted). Courts may not consider an agency’s “impermissible post hoc
28

1 rationalizations.” *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 21 (2020)
2 (internal citations omitted).

3 67. Accordingly, ICE’s policy constitutes final agency action and, for the
4 reasons discussed above, violates APA § 706(2) as arbitrary and capricious and
5 contrary to Due Process and the INA.

6 68. Additionally, ICE’s decisions to re-detain Petitioners were arbitrary
7 and capricious in violation of the APA where the agency failed to
8 contemporaneously—or ever—articulate any flight-risk or danger-based
9 justifications for those decisions.

10 **CLAIMS FOR RELIEF**

11 **FIRST CAUSE OF ACTION**

12 **Violation of the Fifth Amendment Substantive Due Process Clause**

13 69. Petitioner realleges and incorporates by reference paragraphs 1-68,
14 above.

15 70. The Due Process Clause of the Fifth Amendment forbids the
16 government from depriving any person of liberty without due process of law. U.S.
17 Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas*, 533
18 U.S. 678; *Demore v. Kim*, 538 U.S. 510 (2003).

19 71. “The Due Process Clause applies to all ‘persons’ within the United
20 States, including [noncitizens], whether their presence here is lawful, unlawful,
21 temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

22 72. “Freedom from imprisonment—from government custody, detention,
23 or other forms of physical restraint—lies at the heart of the liberty that Clause
24 protects.” *Id.* at 690.

25 73. Immigration detention only comports with Due Process when it
26 furthers the government’s goals of “ensuring the appearance of [noncitizens] at
27 future immigration proceedings and preventing danger to the community.” *Id.*
28 (cleaned up).

1 74. Immigration detention that does not serve the legitimate government
2 purposes of preventing flight or mitigating danger violates substantive Due
3 Process. *Id.*

4 75. Immigration detention pursuant to a blanket policy under which ICE
5 claims authority to arrest and detain all noncitizens who it alleges are not lawfully
6 present in the United States, without regard for whether they are a flight risk or
7 danger—whether for deterrence, to satisfy a quota, or for other purposes that do
8 not bear a reasonable relation to preventing danger or flight risk—violates the
9 Due Process Clause. *Id.*; *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

10 76. Petitioner’s detention violates the Due Process Clause because it is not
11 rationally related to any legitimate government purpose.

12 **SECOND CAUSE OF ACTION**
13 **Violation of the Fifth Amendment Procedural Due Process Clause**

14 77. Petitioner realleges and incorporates by reference paragraphs 1-68,
15 above.

16 78. “In the context of immigration detention, it is well-settled that due
17 process requires adequate procedural protections to ensure that the government’s
18 asserted justification for physical confinement outweighs the individual’s
19 constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872
20 F.3d at 990 (cleaned up).

21 79. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate
22 procedural Due Process by balancing 1) the private interest affected; 2) the risk of
23 erroneous deprivation of such interest; and 3) the government’s interest. *Id.* at
24 335.

25 80. Immigration detention always implicates the liberty interest in
26 “freedom from imprisonment.” *Zadvydas*, 533 U.S. at 690. In addition, when the
27 government releases someone, they retain a liberty interest in their on-going
28 release from government custody. *Morrissey*, 408 U.S. at 482; *Alegria Palma*, No.
25-cv-1942-BJC-MMP at *6; *Sanchez*, 2025 WL 2770629 at *3.

1 81. Where a detained individual does not receive any pre-deprivation
2 hearing, “the risk of an erroneous deprivation of liberty is high because neither
3 the government nor [the petitioner] has had an opportunity to determine whether
4 there is any valid basis for her detention.” *Pinchi*, 792 F. Supp 3d at 1035
5 (cleaned up); *Alegria Palma*, No. 25-cv-1942-BJC-MMP at *6 (“Given that
6 Petitioner was previously released following a determination that he posed no
7 flight risk or danger to the community, and absent any new evidence showing a
8 material change in circumstances, the risk of erroneous detention without a
9 hearing is substantial.”).

10 82. The government can claim no interest in re-detention where there are
11 no changed circumstances going to flight risk or danger that warrant re-detention.
12 *See Pinchi*, 792 F. Supp 3d at 1035. Thus, a fair process for proving the existence
13 of such changed circumstances satisfies any government interest in re-detention.

14 83. Because the government has not afforded Petitioner a pre-deprivation
15 hearing to determine whether changed circumstances going to flight risk or
16 danger warrant his re-detention, his detention violates procedural Due Process.

17 **THIRD CAUSE OF ACTION**

18 **Violation of Immigration and Nationality Act – 8 U.S.C. § 1226(a)**

19 84. Petitioner realleges and incorporates by reference paragraphs 1-68,
20 above.

21 85. Petitioner was re-detained in the interior of the country after his
22 individual hearing and thus is currently detained under 8 U.S.C. § 1226(a).

23 86. Detention under 8 U.S.C. § 1226(a) must serve a legitimate
24 government purpose of mitigating danger or preventing flight. *See Zadvydas*, 533
25 U.S. at 690; 8 U.S.C. § 1226(a), (b); 8 C.F.R. § 1236.1(c)(8).

26 87. Petitioner’s prior release by DHS necessarily reflects a determination
27 he is neither a flight risk nor a danger to the community. 8 C.F.R. § 1236.1(c)(8)
28 (outlining requirements for release on recognizance); 8 C.F.R. § 212.5(b)
(outlining requirements for parole).

1 88. Thus, his re-detention pursuant to 8 U.S.C. § 1226(a) requires an
2 individualized determination of a material change in circumstances going to flight
3 risk or danger for his re-detention to serve a regulatory purpose.

4 89. Petitioner’s re-detention violates the INA, where he was not afforded
5 an individualized determination of a material change in circumstances related to
6 flight risk or danger justifying re-detention.

7 **FOURTH CAUSE OF ACTION**
8 **Violation of Administrative Procedure Act – 5 U.S.C. § 706(2)**
9 **(unlawful agency action)**

10 90. Petitioner realleges and incorporates by reference paragraphs 1-68,
11 above.

12 91. The APA provides that a “reviewing court shall . . . hold unlawful and
13 set aside agency action, findings, and conclusions found to be . . . not in
14 accordance with law,” “contrary to constitutional right, power, privilege, or
15 immunity,” and “in excess of statutory jurisdiction, authority, or limitation.” 5
16 U.S.C. §§ 706(2)(A)–(C).

17 92. ICE has re-detained Petitioner pursuant to a blanket policy under
18 which ICE’s San Diego Field Office claims authority to arrest and detain all
19 noncitizens who it alleges are not lawfully present in the United States, without
20 regard for whether they are a flight risk or danger. Under the *Accardi* doctrine,
21 agencies are bound to follow their own rules and policies that constrain otherwise
22 discretionary detention decisions, and agency action that disregards those binding
23 standards is unlawful. *Accardi*, 347 U.S. 260.

24 93. Because re-detentions pursuant to Respondents’ policy violate
25 Petitioner’s rights under the Due Process Clause of the Fifth Amendment and the
26 INA, the policy additionally violates the APA as it is not in accordance with law, is
27 contrary to constitutional right, and is in excess of statutory jurisdiction. *Id.*

28 **FIFTH CAUSE OF ACTION**
Violation of Administrative Procedure Act – 5 U.S.C. § 706(2)
(arbitrary and capricious agency action)

1 94. Petitioner realleges and incorporates by reference paragraphs 1-68,
2 above.

3 95. The APA provides that a “reviewing court shall . . . hold unlawful and
4 set aside agency action, findings, and conclusions found to be . . . arbitrary and
5 capricious, an abuse of discretion, or otherwise not in accordance with law.”
6 5 U.S.C. §§ 706(2)(A)–(C).

7 96. ICE’s decisions to re-detain Petitioner constitutes final agency action
8 where they mark the “consummation” of agency decision making and are actions
9 “by which rights or obligations have been determined, or from which legal
10 consequences will flow.” *Bennett*, 520 U.S. at 178.

11 97. Because ICE has failed to articulate contemporaneous rational
12 explanation for its decision to re-detain Petitioner after his individual hearing
13 without a pre-detention hearing, and because it cannot provide a post-hoc
14 rationalization for this decision, it is arbitrary and capricious in violation of the
15 APA. *Motor Vehicle Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S.
16 29, 42–43 (1983); *Regents*, 591 U.S. at 21.

17 98. Moreover, to the extent Respondents’ written regulations, policies,
18 and guidance require individualized custody determinations and consideration of
19 flight risk and danger, ICE’s failure to follow those binding standards in
20 implementing its blanket re-detention policy independently renders the policy
21 arbitrary, capricious, and “not in accordance with law” under the *Accardi*
22 doctrine. *Accardi*, 347 U.S. at 267–68.

23 99. Additionally, ICE’s policy pursuant to which ICE’s San Diego Field
24 Office claims authority to arrest and detain all noncitizens who it alleges are not
25 lawfully present in the United States, without regard for whether they are a flight
26 risk or danger, is arbitrary and capricious in violation of the APA because it fails to
27 “articulate a satisfactory explanation for its action including a rational connection
28 between the facts found and the choice made.” *State Farm*, 463 U.S. at 43.

PRAYER FOR RELIEF

Petitioner asks this Court to grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted as to Petitioner within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. 2243;
3. Enjoin Respondents from transferring Petitioner out of the jurisdiction during the pendency of the habeas petition;
4. Issue a writ of habeas corpus requiring that Respondents release Petitioner under the same conditions as his initial release;
5. Order Respondents to return all of Petitioner’s belongings, including his identification documents;
6. Issue a temporary restraining order and preliminary injunction ordering Petitioner’s release and enjoining Respondents from further detaining him without providing notice to the Court and Petitioner’s counsel, and a hearing at which Respondents prove changed circumstances regarding his dangerousness or risk of flight warrant his detention;
7. Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment, the INA, and the APA;
8. Set aside Respondents’ unlawful practice pursuant to 5 U.S.C. § 706(2) as contrary to law, contrary to constitutional right, and in excess of statutory authority; and

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1 9. Grant such further relief as this Court deems just and proper.

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3 Dated: April 1, 2026

Respectfully submitted,

4
5 By: /s/ Arwa J.Z. Kakavand
Arwa J.Z. Kakavand

6
7 By: /s/ Zohaile Kakavand
Zohaile Kakavand

8
9 Attorneys for Petitioner

10
11 **TABLE OF EXHIBITS**

12
13 Exhibit 1: Form I-862, Notice to Appear

14 Exhibit 2: Form I-220A, Order of Release on Recognizance

15
16 Exhibit 3: A-File Jacket Starter

17 Exhibit 4: Memorandum from Liana J. Castano, ICE ERO Assistant Field Office
18 Director, titled, "Reminder as to Applicability of Civil Immigration
19 Enforcement Actions In or Near Courthouses, May 27, 2025," dated
20 March 19, 2026

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I, Zohaile Kakavand, do depose and state:

I represent Petitioner Amir Bahramian in these habeas corpus proceedings. Petitioner is currently being held in detention at the Otay Mesa Detention Center and is not able to appear in my office to sign this Verification. I have reviewed the record of his detention and discussed this matter with him. I verify that the information contained in the foregoing petition is true and correct to the best of my knowledge and belief.

Dated: April 1, 2026

Respectfully submitted,

By: /s/ Zohaile Kakavand
Zohaile Kakavand

Attorney for Petitioner