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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 Emaddin A Ali KABLAN,

11 Petitioner,

12 v.

13 Markwayne MULLIN, Secretary, U.S.
14 Department of Homeland Security; Pamela
15 BONDI, U.S. Attorney General; Todd LYONS,
16 Acting Director, Immigration and Customs
17 Enforcement; Daniel BRIGHTMAN, Director,
18 San Diego Field Office, Immigration and
19 Customs Enforcement, Enforcement and
20 Removal Operations; Christopher J. LAROSE,
21 Warden, Otay Mesa Detention Center;
22 U.S. DEPARTMENT OF HOMELAND
23 SECURITY; IMMIGRATION AND
24 CUSTOMS ENFORCEMENT and
25 EXECUTIVE OFFICE FOR IMMIGRATION
26 REVIEW,

27 Respondents.
28

Case No. '26CV2083 DMS MSB

**PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO
28 U.S.C. § 2241;
VERIFIED PETITION**

PETITIONER DHS NO: A



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INTRODUCTION

1. Petitioner, Emaddin A Ali Kablan, a citizen of Libya, is in the physical custody of Respondents at Otay Mesa Detention Center in San Diego, California. He has been in the custody of U.S. Immigration and Customs Enforcement (ICE) since being detained on March 25, 2026, at an ICE check-in that had been scheduled two days prior, based on alleged administrative violations of Intensive Supervision Appearance Program (ISAP) requirements. Petitioner disputes Respondents' allegations that he failed to comply with his obligations under the program.

2. Mr. Kablan, by and through his undersigned counsel, hereby files this Petition for Writ of Habeas Corpus to compel his immediate release from Respondents' custody.

3. Mr. Kablan filed an affirmative asylum application with U.S. Citizenship and Immigration Services (USCIS) on December 2, 2016. His wife, who is not detained, is a rider on his case. USCIS referred his asylum claim to the Executive Office for Immigration Review (EOIR) on May 19, 2022, which is currently pending before the Immigration Court.

4. Mr. Kablan was previously detained by U.S. Department of Homeland Security (DHS) on September 20, 2024. On November 13, 2024, he was granted release by an Immigration Judge on a \$4,000 bond, with Alternatives to Detention (ATD) monitoring at the discretion of DHS. Exh. A, IJ Bond Order.

5. From that time until now, Mr. Kablan has complied with supervision through ICE's ISAP program. He has attended his scheduled check-ins, complied with scheduled home visits, and used the ICE mobile application as directed. He has never absconded, never missed an Immigration Court hearing, and has never been charged with any crime.

6. Mr. Kablan must be released from custody unless and until DHS proves to a neutral adjudicator, by clear and convincing evidence, that there are changed circumstances justifying the cancellation of the \$4,000 bond that an immigration judge set for Mr. Kablan in 2024, and that Mr. Kablan is a flight risk or a danger to the community. DHS will not be able to do so. Due process requires the government to provide noncitizens with notice and a hearing *prior to* re-detention. Re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.

1 7. Because no circumstance justified Mr. Kablan’s re-detention, and his detention is
2 unlawful and unconstitutional, the Court should accordingly order Mr. Kablan’s immediate
3 release, and order that Respondent DHS must release Petitioner within one day.

4 **JURISDICTION**

5 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Otay
6 Mesa Detention Center in San Diego, California.

7 9. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331
8 (federal question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702 (waiver of
9 sovereign immunity), and Article I, section 9, clause 2 of the United States Constitution (the
10 Suspension Clause).

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

13 **VENUE**

14 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500
15 (1973), venue lies in the United States District Court for the Southern District of California,
16 the judicial district in which Petitioner is currently detained.

17 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
18 Respondents are employees, officers, and agencies of the United States, and because a
19 substantial part of the events or omissions giving rise to the claim occurred in the Southern
20 District of California.

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

22 13. The Court must grant the petition for writ of habeas corpus or order Respondents to show
23 cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order
24 to show cause is issued, the Respondents must file a return “within three days unless for good
25 cause additional time, not exceeding twenty days, is allowed.” *Id.*

26 14. Habeas corpus is “perhaps the most important writ known to the constitutional law . . .
27 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or

1 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for
2 the writ usurps the attention and displaces the calendar of the judge or justice who entertains it
3 and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*,
4 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

5 **PARTIES**

6 15. Petitioner Emaddin A Ali Kablan was arrested by ICE agents on or about March 25,
7 2026 in San Diego, California, and has been in immigration detention since that date. Since
8 Petitioner’s arrest, ICE is holding him without bond.

9 16. Respondent Markwayne Mullin is the Secretary of the Department of Homeland
10 Security. He is responsible for the implementation and enforcement of the Immigration and
11 Nationality Act and oversees ICE, which is responsible for Petitioners’ detention. Mr. Mullin
12 has ultimate custodial authority over Petitioners and is sued in his official capacity.

13 17. Respondent Todd Lyons is the Acting Director of Immigration and Customs
14 Enforcement, a federal law enforcement agency within the Department of Homeland Security.
15 ICE’s responsibilities include operating the immigration detention system. In his capacity as
16 ICE Acting Director, Respondent Lyons exercises control over and is custodian of persons
17 held in ICE facilities nationally. He is Petitioner’s immediate custodian and is responsible for
18 Petitioner’s detention. At all times relevant to this Complaint, Respondent Lyons was acting
19 within the scope and course of his employment with ICE. He is sued in his official capacity.

20 18. Respondent Daniel Brightman is the Director of the San Diego Field Office of ICE’s
21 Enforcement and Removal Operations division. As such, he is the custodian of all persons
22 held at the ICE facilities in the San Diego Field Office. He is Petitioner’s immediate
23 custodian and is responsible for Petitioner’s detention. He is sued in his official capacity.

24 19. Respondent Christopher J. LaRose is employed by CoreCivic, Inc., as Warden of the Otay
25 Mesa Detention Center in San Diego, California. He has immediate physical custody of
26 Petitioner. He is sued in his official capacity.

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

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

4 22. Respondent Executive Office for Immigration Review (EOIR) is the federal agency
5 responsible for implementing and enforcing the INA in removal proceedings, including for
6 custody redeterminations in bond hearings.

7 LEGAL FRAMEWORK

8 23. “The Fifth Amendment guarantees that ‘[n]o person shall be...deprived of life, liberty,
9 or property, without due process of law.’” *Salazar v. Casey*, No. 25-CV-2784 JLS (VET),
10 2025 WL 3063629, at *3 (S.D. Cal. Nov. 3, 2025) (quoting U.S. Const. Amend. V). “[T]he
11 Due Process Clause applies to all ‘persons within the United States, including aliens, whether
12 their presence here is lawful, unlawful, temporary, or permanent.’” *Zadvydas v. Davis*, 533
13 U.S. 678, 693 (9th Cir. 2001).

14 24. Immigration detention is a form of civil confinement, and thus “constitutes a significant
15 deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418,
16 423 (1979).

17 25. Immigration detention that is punitive in purpose and effect violates the Due Process
18 Clause. *Zadvydas*, 533 U.S. at 690. The only legitimate use of immigration detention is
19 when, based on an individualized determination, a noncitizen is a flight risk because they are
20 unlikely to appear for immigration court, or they are a danger to the community. *Id.*

21 26. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth
22 Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

23 27. The Immigration and Nationality Act establishes various procedures through which
24 individuals may be detained pending a decision on whether or not the noncitizen is to be
25 removed. 8 U.S.C. § 1226(a).

26 28. Removal proceedings described in section 240 of the INA are used to determine whether
27 individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. §
1229a.

29. Custody determinations under § 1226(a) are individualized and based on the facts
presented in those cases. Unlike § 1226(c), which can provide for categorical determinations

1 for detention regardless of flight or safety risks, § 1226(a) requires a case-by-case review of
2 the facts and circumstances.

3 30. Once a determination to release an individual from custody is made, the release order
4 may be revisited when the facts and circumstances warrant revocation or reconsideration. 8
5 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take
6 that individual back into custody by revoking the individual's release only when the facts and
7 circumstances warrant it. Revocation and return to custody are authorized only based on the
8 individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9); *see also Saravia v. Sessions*,
9 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905
10 F.3d 1137 (9th Cir. 2018) (the DHS's authority to revoke a noncitizen's bond is limited to
11 instances in which circumstances have changed to such an extent that the noncitizen may now
12 constitute a flight risk or danger to the community); *see also Ortega v. Bonnar*, 415 F. Supp.
13 3d 963, 968 (N.D. Cal. 2019) (same). By regulation, revocation decisions are limited in
14 nature and may only be made by certain authorized individuals. 8 C.F.R. § 1236.1(c)(9).

14 **FACTS**

15 31. Petitioner Emaddin A Ali Kablan, 41, is a native and citizen of Libya.

16 32. Mr. Kablan was admitted to the United States on an F-1 visa on September 19, 2014; his
17 wife, also a citizen of Libya, was admitted on an F-2 visa as his dependent.

18 33. Mr. Kablan filed an affirmative asylum application with U.S. Citizenship and
19 Immigration Services on December 2, 2016, while he was still in F-1 nonimmigrant status.
20 Exh. F, I-589 Receipt Notice. Mr. Kablan filed for asylum within a reasonable period of an
21 extraordinary circumstance, i.e., maintenance of lawful nonimmigration status, 8 C.F.R. §
22 208.4(a)(5)(iv).

23 34. On May 19, 2022, Mr. Kablan's asylum application was referred to the Immigration
24 Court, and on May 20, 2022, the DHS filed a Notice to Appear with the Immigration Court,
25 charging him with removability under 8 U.S.C. § 1227(a)(1)(C)(i), as a nonimmigrant
26 overstay. Exh. G, Notice to Appear.

27 35. Mr. Kablan has been granted work authorization incident to his pending asylum
application.

1 36. Mr. Kablan is currently employed by Qualcomm Technologies, Inc. as an engineer,
2 where he has been employed since August 30, 2021. Exh. H, Letter of Verification of
3 Employment.

4 37. On September 20, 2024, Mr. Kablan was detained by DHS officers at the airport in San
5 Jose, California, while traveling with other Qualcomm personnel on a work trip to the San
6 Jose/San Francisco area.

7 38. On November 13, 2024, Mr. Kablan was granted release by an Immigration Judge on a
8 \$4,000.00 bond, with Alternatives to Detention (ATD) monitoring at the discretion of DHS.
9 Exh. A, IJ Bond Order.

10 39. Following his release, Mr. Kablan was enrolled in ICE's Intensive Supervision
11 Appearance Program (ISAP) program, requiring him to send photos of his face via the ICE
12 mobile phone application once a week, as well as comply with scheduled home visits and in-
13 person check-ins.

14 40. To the best of his knowledge and recollection, Mr. Kablan complied with the ISAP
15 requirements. Exh. C, Declaration of Emaddin A Ali Kablan. The ISAP mobile phone
16 application on occasion malfunctioned, indicating an error when Mr. Kablan attempted to
17 submit his photo; however, when that occurred, ISAP would send him a message telling him
18 that they had not received his photo and instructed him to submit one, which Mr. Kablan did
19 promptly each time. *Id.* He assumed he was in compliance once he resent the photo as
20 instructed and did not receive any additional communications from ISAP. *Id.*

21 41. In addition, Mr. Kablan complied with all other conditions of release, including
22 appearing at all Immigration Court hearings; maintaining work authorization and
23 employment; not violating any laws, state or federal; and not committing any crimes.

24 42. Mr. Kablan and his wife have four United States citizen minor children, ages 11, 9, 5,
25 and 19 months. Exh. I, Birth Certificates of Mr. Kablan's Children. He is the main financial
26 provider for his wife and children.

27 43. Mr. Kablan is also enrolled in a Ph.D. program in electrical engineering at the University
of Texas, Austin.

44. By all accounts, Mr. Kablan is a devoted father and husband, a valued employee, and a
diligent student. Exh. J, Letters in Support of Bond Redetermination in 2024.

1 45. On February 3, 2026, Mr. Kablan appeared before the San Diego Immigration Court for
2 his individual merits hearing. Testimony was not completed, so the Immigration Judge
3 continued the hearing to July 29, 2026.¹

4 46. On Monday, March 23, 2026, Mr. Kablan received a message from ISAP stating: “the
5 [ICE] officers are asking for you to report to their office tomorrow at 8am or wednesday [sic]
6 at 8:00 am on 880 Front Street #2242 San Diego, CA 92101 second floor.” Exh. B,
Screenshot of ISAP Message, dated March 23, 2026.

7 47. Mr. Kablan reported to ICE as instructed on Wednesday, March 25, 2026. He was
8 represented by counsel, Attorney Nicole Leon, Esq. Exh. D, Declaration of Nicole Leon, Esq.

9 48. Mr. Kablan and his counsel met with ICE Officer Paraiso, who indicated that Mr.
10 Kablan’s bond was being cancelled and he was being remanded back to custody for alleged
11 ISAP reporting violations. *Id.* at ¶ 5. Officer Paraiso showed counsel and petitioner a printout
12 listing alleged violations, consisting of approximately five or six missed “biometric”
13 submissions on the ICE mobile application and one alleged missed home visit; however, the
14 officer did not provide counsel with a copy of the printout. *Id.* at ¶¶ 6-7. Officer Paraiso
15 stated that his office had “orders from above” to “crack down on violators” to “make an
16 example of them,” and that it had been determined that Mr. Kablan was in this category, and
on that basis, he would be immediately re-detained. *Id.* at ¶ 5.

17 49. Counsel for Mr. Kablan requested reconsideration based on Mr. Kablan’s responsibilities
18 in caring and providing for his four minor United States citizen children, and his longstanding
19 employment with Qualcomm Technologies, Inc., as well as the absence of any criminal
20 record, attendance at all court hearings, and compliance with all in-person check-in
21 appointments – including attendance at the in-person appointment with the ICE officer on
22 March 25, 2026, which had been scheduled on short notice, only two days prior. Exh. D,
Declaration of Nicole Leon, Esq. at ¶ 10.

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24
25 ¹ Due to the nature of the immigration judges’ dockets, it is common practice for
26 immigration courts to continue trials to dates months in the future, to allow the same immigration
27 judge to continue hearing the case. Mr. Kablan’s detention on March 25, 2026 has interrupted
this process, forcing him to start anew with another immigration judge at the Otay Mesa
Immigration Court.

1 50. Officer Paraiso indicated that he did not have discretion to take such considerations into
2 account. *Id.* at ¶ 11.

3 51. At counsel's request, Officer Paraiso purportedly made an appeal to his supervisor for
4 reconsideration, leaving the room for a few minutes, out of sight and earshot of Mr. Kablan
5 and counsel. Officer Paraiso returned only a few minutes later, and upon reentering the room,
6 he announced: "Your request is denied." *Id.* at ¶ 12.

7 52. Mr. Kablan was then immediately re-detained by ICE and transported to the Otay Mesa
8 Detention Center, where he is currently being held. His immigration case is now before a
9 different immigration judge than the one who heard several hours of testimony in his case thus
10 far.

11 53. Mr. Kablan is scheduled to appear for a Master Calendar Hearing at the Otay Mesa
12 Immigration Court on April 22, 2026.

13 EXHAUSTION OF ADMINISTRATIVE REMEDIES

14 54. With regard to habeas claims, exhaustion of administrative remedies is prudential, not
15 jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive
16 the prudential exhaustion requirement if "administrative remedies are inadequate or not
17 efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury
18 will result, or the administrative proceedings would be void." *Id.* (quoting *Liang v. Ashcroft*,
19 370 F.3d 994, 1000 (9th Cir. 2004)). Petitioner asserts that exhaustion should be waived
20 because administrative remedies are (1) futile and (2) his continued detention results in
21 irreparable harm.

22 55. No statutory exhaustion requirements apply to Mr. Kablan's claim of unlawful custody
23 in violation of his due process rights, and there are no administrative remedies that he needs to
24 exhaust. *See American-Arab Anti-Discrimination Comm. V. Reno*, 70 F.3d 1045, 1058 (9th
25 Cir. 1995) (Finding exhaustion to be a "futile exercise because the agency does not have
26 jurisdiction to review constitutional claims); *In re Indefinite Det. Cases*, 83 F. Supp. 2d 1098,
27 1099 (C.D. Cal. 2000) (same).

56. Mr. Kablan is the main financial provider for his wife and four minor United States
citizen children. His children are at risk of suffering extreme financial and emotional hardship
in his absence.

1 57. In addition, the irreparable injury Mr. Kablan faces extends beyond a chance at physical
2 liberty. There are several “irreparable harms imposed on anyone subject to immigration
3 detention[.]” *Hernandez*, 872 F.3d at 995. These include conditions threatening the health and
4 safety and the lives of persons in ICE custody.²

5
6 **FIRST CLAIM FOR RELIEF**
7 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**
8 **Abuse of Discretion**
9 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

10 58. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in
11 the preceding paragraphs as if fully set forth herein.

12 59. Under the APA, a court shall “hold unlawful and set aside agency action” that is an
13 abuse of discretion. 5 U.S.C. § 706(2)(A).

14 60. An action is an abuse of discretion if the agency “entirely failed to consider an important
15 aspect of the problem, offered an explanation for its decision that runs counter to the evidence
16 before the agency, or is so implausible that it could not be ascribed to a difference in view or
17 the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. Of Wildlife*, 551 U.S.
18 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S. Inc. v. State Farm Mut. Auto Ins.*
19 *Co.*, 463 U.S. 29, 43 (1983)).

20 ² “County sues DHS over access to Otay Mesa detention facility: County officials say
21 detainees have reported freezing temperatures, untreated medical conditions and food unfit for
22 human consumption,” NBC San Diego, March 10, 2026, available at:
23 [https://www.nbcsandiego.com/news/local/county-sues-dhs-over-access-to-otay-mesa-detention-
24 facility/3992889/](https://www.nbcsandiego.com/news/local/county-sues-dhs-over-access-to-otay-mesa-detention-facility/3992889/); *see also* “Deaths of detainees in ICE custody surge under 2nd Trump
25 Administration,” ABC News, March 30, 2026, available at: [https://abcnews.com/US/deaths-
26 detainees-ice-custody-surge-2nd-trump-administration/story?id=131473647](https://abcnews.com/US/deaths-detainees-ice-custody-surge-2nd-trump-administration/story?id=131473647); *see also* “Deaths in
27 ICE Custody Are Growing. ‘They Let Him Rot in There,’” New York Times, March 29, 2026,
available at: <https://www.nytimes.com/2026/03/29/us/ice-detention-deaths-immigrants.html>; *see
also* “Data: More ICE custody deaths reported in last 6 months than in all of FY 2025,” Action 5
News, March 31, 2026, available at: [https://www.actionnews5.com/2026/03/31/data-more-ice-
custody-deaths-reported-last-6-months-than-all-fy2025/](https://www.actionnews5.com/2026/03/31/data-more-ice-custody-deaths-reported-last-6-months-than-all-fy2025/).

1 61. To survive an APA challenge, the agency must articulate “a satisfactory explanation for
2 its action, “including a rational connection between the facts found and the choice made.”
3 *Dept. of Com. v. New York*, 139 S. Ct. 2251, 2569 (2019) (citation omitted).

4 62. By categorically revoking Mr. Kablan’s bond and re-detaining him without
5 consideration of his individualized facts and circumstances, Respondents have violated the
6 APA.

7 63. By re-detaining Mr. Kablan categorically for punitive reasons, based on orders “from
8 above” that as an alleged “violate,” Mr. Kablan is to be made an “example” of, Respondents
9 have further abused their discretion because there have been no changes to his facts or
10 circumstances that would warrant the revocation of his bond and release from custody since
11 an Immigration Judge made the initial custody determination on November 13, 2024.

12 64. Respondents considered Mr. Kablan’s facts and circumstances in November 2024 and
13 determined that he was not a flight risk or danger to the community. There have been no
14 changes to the facts that justify this revocation of bond and re-detention. The fact that Mr.
15 Kablan has already been granted release on bond by Respondents under the same facts and
16 circumstances shows that the Respondents do not consider him to be a danger to the
17 community or a flight risk.

18 **SECOND CLAIM FOR RELIEF**

19 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**
20 **Not in Accordance with Law and in Excess of Statutory Authority**
21 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

22 65. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in
23 the preceding paragraphs as if fully set forth herein.

24 66. Under the APA, a court “shall [...] hold unlawful [...] agency action” that is “not in
25 accordance with law,” “contrary to constitutional right;” “in excess of statutory jurisdiction,
26 authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. §
27 706(2)(A-D).

67. 8 U.S.C. § 1226(b) states that “[t]he Attorney General at any time may revoke a bond or
parole authorized under 8 U.S.C. § 1226(a)” and rearrest a noncitizen under the initial
warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such
revocations may only be carried out in the “discretion of the district director, acting district

1 director, assistant district director for investigations, assistant district director for detention
2 and deportation, or officer in charge (except foreign).”

3 68. It is a well-established administrative principle that “agency action taken without lawful
4 authority is at least voidable if not void *ab initio*.” *L-M-M. v. Cuccinelli*, 442 F. Supp. 3d 1,
5 35 (D.C. Cir. 2015); *see also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555
6 (9th Cir. 2016) (invalidating agency action because it was taken by an unauthorized official).

7 69. On information and belief, Respondents have revoked Mr. Kablan’s prior custody
8 determination as a result of a categorical policy prepared by and implemented by unidentified
9 governmental officials “from above,” not through the individualized discretion required by
10 law or by the individuals designated by regulation to do so.

11 70. Because Mr. Kablan’s revocation of bond and release from custody has been
12 categorically directed by government officials not authorized by law to make this
13 determination, Respondents’ detention of Mr. Kablan is not in accordance with law and in
14 excess of statutory authority.

15 **THIRD CLAIM FOR RELIEF**

16 **Petitioner’s Detention Violates His Fifth Amendment Right to Substantive Due Process**

17 71. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in
18 the preceding paragraphs as if fully set forth herein.

19 72. The Government may not deprive a person of life, liberty, or property without due
20 process of law. U.S. Const. Amend. V. “Freedom from imprisonment – from government
21 custody, detention, or other forms of physical restraint – lies at the heart of the liberty that the
22 Clause protects.” *Zadvydas*, 533 U.S. at 690.

23 73. This interest in freedom from detention is particularly strong for individuals who are
24 facing termination of previous release conditions and re-detention. In *Morrissey v. Brewer*, the
25 Supreme Court held that an individual who is re-detained after being released- has a “valuable”
26 liberty interest notwithstanding the “indeterminate” nature of his freedom. 408 U.S. 471, 482
27 (1972). “There is also a meaningful distinction between a challenge to an initial period of
detention . . . and a challenge to *re-detention* after a court has previously granted release on
bond pending immigration proceedings...[A] person who has been released from physical
restraint gains a liberty interest that is valuable and must be seen as within the protection of the

1 Due Process Clause.” *Carballo v. Andrews*, No. 1:25-CV-00978- KES-EPG (HC), 2025 WL
2 2381464, at *4 (E.D. Cal. Aug. 15, 2025) (internal quotation marks and citations omitted)
3 (emphasis in original).

4 74. Mr. Kablan has resided in the United States for nearly 12 years and has no criminal
5 history, nor has he ever missed any court dates or check-ins with authorities. As of the date of
6 his re-detention on March 25, 2026, he had been on release status for nearly a year and a half
7 following an individualized determination. Officer Paraiso openly articulated a categorical,
8 punitive basis for re-detaining Mr. Kablan, i.e., “orders from above” to “crack down” and “make
9 an example” of him. The Respondents have violated Mr. Kablan’s Due Process interest in
10 freedom from arbitrary detention.

11 **FOURTH CLAIM FOR RELIEF**

12 **Petitioner’s Detention Violates His Fifth Amendment Right to Procedural Due Process**

13 75. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in
14 the preceding paragraphs as if fully set forth herein.

15 76. Due process requires that government action be rational and non-arbitrary. *See U.S. v.*
16 *Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

17 77. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and
18 to revoke custody decision under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and
19 must comport with due process. *See Zadvydas*, 533 U.S. at 698.

20 78. Once a determination to release an individual from custody is made, the release order may
21 be revisited only if the facts and circumstances warrant revocation or reconsideration. “In
22 practice, the DHS re-arrests individuals only after a ‘material’ change in circumstances. To
23 satisfy due process, those changed circumstances must represent individualized legal
24 justification for detention.” *Sanchez v. Larose*, No. 25cv2396-JES-MMP (S.D. Cal. Sep. 26,
25 2025) (internal citations omitted); *Tran v. Noem*, No. 25cv2334-JES-MSB, at *6-7 (S.D. Cal.
26 Sep. 29, 2025) (citing *Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004). “This
27 standard prevent[s] arbitrary revocations and ensure[s] that detention decisions rest[] on
individualized assessments of changed circumstances rather than categorical assumptions.
Gonzalez v. Bostock, No. 2:25cv01404-JNW-GJL at *13 (W.D. Wash. Oct. 7, 2025) (discussing
Vargas v. Jennings, No. 20-cv-5785, 2020 WL 5074312, at *2 (N.D. Cal. Aug. 23, 2020)

1 (quoting *Ortega v. Bonnar*, 415 F.Supp.3d 963, 968 (N.D. Cal. 2019) (quoting *Matter of Sugay*,
2 17 I.&N. Dec. 637, 640 (BIA 1981)); *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1197 (N.D. Cal.
3 2017). Cf. *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981).

4 79. To determine the procedural protections required to satisfy the Due Process Clause, the
5 Court applies the three-part test established in *Mathews v. Eldridge*, 424 U.S. 319 (1976). The
6 Court must consider: (1) “the private interest that will be affected by the official action;” (2)
7 the “risk of an erroneous deprivation of such interest through the procedures used, and the
8 probable value, if any, of additional or substitute procedural safeguards;” and (3) “the
9 Government’s interest including the function involved and the fiscal and administrative
10 burdens that the additional or substitute procedural requirement would entail.” *Id.* The Ninth
11 Circuit has “assume[d] without deciding” that *Mathews* applies in the immigration detention
12 context. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022); *see also Pinchi v.*
Noem, 792 F. Supp. 3d 1025, 1033 n.2 (N.D. Cal. 2025) (collecting cases where the Ninth
13 Circuit has applied *Mathews* in the immigration context).

14 80. First, Mr. Kablan has a significant liberty interest in remaining at liberty on bond.
15 Noncitizens released on immigration bonds have a liberty interest in remaining on bond.
16 *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 966 (N.D. Cal. 2019), citing *Morrissey v. Brewer*, 408
17 U.S. 471, 482 (1972) (holding that parolees have a liberty interest in remaining free from
18 government custody). Courts in this District and around the country have consistently held
19 that noncitizens who have been released from immigration custody pending removal
20 proceedings have a constitutionally protected liberty interest in remaining out of immigration
21 custody. *Lesic v. LaRose*, No. 3:25-cv-02746-LL-BJW, 2025 WL 3158675, at *2 (S.D. Cal.
22 Nov. 12, 2025) (“[O]nce an IJ grants a petitioner’s bond for release, it is a constitutionally
23 protected liberty interest, which DHS cannot unilaterally cancel absent a material,
24 individualized change in circumstance.”); *Astafev v. Warden, Otay Mesa Dec. Ctr.*, No. 3:26-
25 cv-00313-RBM-AHG, 2026 WL 654247, at *3 (S.D. Cal. Mar. 9, 2026); *Pinchi* 792 F. Supp.
26 at 1032 (“[E]ven when ICE has the initial discretion to detain or release a noncitizen pending
27 removal proceedings, after that individual is released from custody she has a protected liberty
interest in remaining out of custody.”); *Ramirez Tesara v. Wamsley*, No. 25-cv-01723-
MJPTLF, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025); *E.A. T.-B. v. Wamsley*, No. C25-
1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025); *Espinoza Palacios v. Hermosillo*,

1 No. 2:26-cv-491-JNW, 2026 WL 686138, at *7 (W.D. Wash. Mar. 11, 2026); *Maconel-*
2 *Arguello v. Chestnut*, No. 1:25-cv-01588-KES-EPG-HC, 2026 WL 114252, at *4 (E.D. Cal.
3 Jan. 15, 2026). Thus, under the first *Mathews* factor, Mr. Kablan has a protected liberty
4 interest in remaining out of immigration custody after his release on bond in 2024.

5 81. Second, “without notice and a pre-deprivation hearing, the risk of erroneous deprivation
6 is high.” *Espinoza Palacios*, 2026 WL 686138, at *8 (finding that where alleged ISAP
7 violations were the sole basis for re-detention, a pre-deprivation hearing was necessary to
8 comport with due process); *see also Maconel-Arguello*, 2026 WL 114252 at *4 (same).
9 Indeed, a high risk of erroneous deprivation of this liberty interest exists when the government
10 fails to provide a pre-deprivation hearing to demonstrate a material change in circumstances
11 justifying re-detention. *Pinchi*, 792 F. Supp. 3d at 1035. When a noncitizen “was previously
12 released following a determination that he posed no flight risk or danger to the community,
13 and absent any new evidence showing a material change in circumstances, the risk of
14 erroneous detention without a hearing is substantial.” *Alegria Palma v. Larose*, No. 25-cv-
15 1942-BJC-MMP, ECF No. 14, at *6 (S.D. Cal. Aug. 11, 2025). The requirement of an
16 individualized determination is even stronger in cases of re-detention because, when DHS
17 released the noncitizen in the past, that prior “[r]elease reflects a determination by the
18 government that the noncitizen is not a danger to the community or a flight risk.” *Saravia v.*
19 *Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v.*
20 *Sessions*, 905 F.3d 1137 (9th Cir. 2018). *See also* 8 C.F.R. § 236.1(c)(8) (authorizing release
21 of noncitizens under § 1226(a) if they demonstrate to the satisfaction of the officer that their
22 release “would not pose a danger to property or persons,” and that they are “likely to appear
23 for any future proceeding”). “To be lawful” their re-detention “must be based on evidence that
24 the circumstances relevant to that original release decision have changed.” *Saravia* 280 F.
25 Supp at 1196; *see also Sanchez*, 2025 WL 2770629 at *3 (“To satisfy due process, those
26 changed circumstances must represent individualized legal justification for detention.”
27 (internal citation omitted)).

82. Mr. Kablan did not receive notice or a pre-detention hearing before the revocation of his
release and his re-detention. He was “purportedly re-detained for violating conditions of [his]
release by failing to check in through the ISAP app,” but “it appears that the app may not have

1
2 functioned correctly at times, despite [Mr. Kablan’s] efforts to check in.”³ *Espinoza Palacios*,
3 2026 WL 686138, at *8. “Ultimately, factual disputes like these ‘should be resolved at a pre-
4 deprivation hearing, rather than resolved after the fact by this Court.’” *Id.*, quoting *Tesara v.*
5 *Wamsley*, No. 2:25-cv-01723-KKE-TLF, 2025 WL 3288295, at *5 (W.D. Wash. Nov. 25,
6 2025). “That the Government may believe it has a valid reason to detain Petitioner does not
7 eliminate its obligation to effectuate the detention in a manner that comports with due
8 process.” *E.A. T.-B. v. Wamsley*, 795 F.3d 1316, 1322 (W.D. Wash. Aug. 19, 2025). Indeed,
9 an “undeniably stark” risk of erroneous deprivation exists where the Government contends
10 that “notwithstanding a neutral arbiter’s determination that Petitioner should be released, ICE
11 is entitled to unilaterally terminate the IJ’s order by re-detaining Petitioner without a hearing
12 for at least six months, based on ICE’s own determination in its sole discretion that additional
13 conditions of release unilaterally set by ICE had been violated.” *Guillermo M.R. v. Kaiser*,
14 791 F.Supp.3d 1021, 1037-38, No. 25-cv-05436-RFL, (N.D. Cal. July 17, 2025). A “post-
15 deprivation hearing cannot serve as an adequate procedural safeguard because [it occurs] after
16 the fact and [thus] cannot prevent an erroneous deprivation of liberty.” *E.A. T.-B.* F. Supp. 3d
17 at 1324. This second *Mathews* factor therefore weighs in Mr. Kablan’s favor.

18 83. Third, “the Government’s interest in re-detaining non-citizens previously released
19 without a hearing is minimal: any administrative financial burdens in providing Petitioner a
20 hearing are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.”
21 *Tesara*, 2025 WL 3288295, at *6, (internal quotation marks omitted), citing *Ortega v. Bonnar*,

22
23 ³ Technical problems with the ISAP mobile application are well-documented. See Exh. E-1,
24 “Poor tech, opaque rules, exhausted staff: inside the private company surveilling US
25 immigrants,” *The Guardian*, March 7, 2022, available at: [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2022/mar/07/us-immigration-surveillance-ice-bi-isap)
26 [news/2022/mar/07/us-immigration-surveillance-ice-bi-isap](https://www.theguardian.com/us-news/2022/mar/07/us-immigration-surveillance-ice-bi-isap) \. The Guardian investigation found
27 that the app “frequently malfunctions, causing immigrants to miss required check-ins.” *Id.*; see
also Exh. E-2, “Meet SmartLINK, the App Tracking Nearly a Quarter Million Immigrants,” *The*
Markup, June 27, 2022, available at: [https://themarkup.org/the-breakdown/2022/06/27/meet-](https://themarkup.org/the-breakdown/2022/06/27/meet-smartlink-the-app-tracking-nearly-a-quarter-million-immigrants)
smartlink-the-app-tracking-nearly-a-quarter-million-immigrants (reporting that technical glitches
not uncommon).

1 415 F. Supp. 3d at 970 (“If the government wishes to re-arrest Ortega at any point, it has the
2 power to take steps toward doing so; but its interest in doing so without a hearing is low.”).

3 84. When no evidence of changed circumstances in the record justifies re-detention, the
4 government’s interest in re-detention is low. *Chancely Fanfan, et al. v. Noem*, No. 25-cv-3291,
5 2025 WL 3563739, at *3 (S.D. Cal. Dec. 12, 2025) (citing *Doe v. Chestnut*, No. 1:25-cv-
6 01372-CDB (HC), 2025 WL 3295154, at *10 (E.D. Cal. Nov. 26, 2025) (further citations
7 omitted)). Moreover, to the extent that Respondents seek to re-detain a noncitizen such as Mr.
8 Kablan based on a categorical policy mandated “from above” to “crack down on [alleged]
9 violators” and “make an example of them” – or “to meet an administrative quota or because
10 the government has not yet established constitutionally required pre-detention procedures,” or
11 because providing pre-deprivation procedures would be “fiscally or administratively
12 onerous,” those excuses are not legitimate government interests that outweigh a Petitioner’s
13 liberty interest. *Pinchi*, 792 F. Supp. 3d at 1036. The high cost of detaining noncitizens likely
14 exceeds the cost of providing a pre-detention hearing. *Id.*

15 85. In summary, the three *Mathews* factors favor Mr. Kablan. Mr. Kablan’s re-detention
16 without a pre-deprivation hearing to determine whether material changes in his circumstances
17 justify his re-detention violates his procedural Due Process rights. The appropriate remedy is
18 to order the Petitioner’s immediate release from Respondents’ custody and a return to the
19 status quo ante, and reinstate bond.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Petitioner respectfully asks that this Court take jurisdiction over this matter
22 and grant the following relief:

- 23 a. Order that Petitioner shall not be transferred outside of the Southern District of
24 California while this petition is pending;
- 25 b. Issue an Order to Show Cause ordering Respondents to show cause within
26 three (3) days why this Petition should not be granted;
- 27 c. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner

1 from custody immediately, subject to the conditions of his preexisting release
2 on bond;

3 d. In the alternative, conduct an immediate bonding hearing before this Court
4 where DHS bears the burden of justifying Petitioner's continued detention by
5 clear or convincing evidence;

6 e. Enjoin Respondents from adding additional requirements to Petitioner's
7 release conditions;

8 f. Order that prior to any re-detention of Petitioner, that Petitioner is entitled to
9 notice of the reasons for revocation of his bond and a pre-detention hearing
10 before an immigration judge to determine whether detention is warranted.

11 Respondents bear the burden of establishing, by clear and convincing
12 evidence, that Petitioner poses a danger to the community or a risk of flight at
13 that hearing;

14 g. Declare that the revocation of Petitioner's bond was done in violation of
15 statute and regulation, and in violation of the Due Process Clause of the Fifth
16 Amendment;

17 h. Declare that Petitioner's detention is in violation of statute and regulation;

18 i. Declare that Petitioner's detention violates the Due Process Clause of the Fifth
19 Amendment;

20 j. Award Petitioner attorney's fees and costs under the Equal Access to Justice
21 Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified
22 under law; and

23 k. Grant any other further relief this Court deems just and proper.
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DATED: April 2, 2026

s/ Jan Joseph Bejar
Jan Joseph Bejar, Esq.
For: JAN JOSEPH BEJAR,
A Professional Law Corp.

Attorneys for Petitioner

VERIFICATION

I, Jan Joseph Bejar, 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 Petitioner, I am making this verification on his behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to the best of 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 April 2, 2026.

s/ Jan Joseph Bejar
JAN JOSEPH BEJAR
FOR: JAN JOSEPH BEJAR,
A PROFESSIONAL LAW CORP.

Attorney for Petitioner