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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION**

Abaker Haron,

Petitioner,

v.

Eric Rokosky, Warden, Eloy Detention Center;

Christopher McGregor, Acting Director,
Phoenix Field Office, U.S. Department of
Homeland Security (DHS), ICE, Enforcement
and Removal Operations (ERO);

Todd M. Lyons, Acting Director, U.S.
Immigration and Customs Enforcement (ICE);

Markwayne Mullin, Secretary, U.S.
Department of Homeland Security;

Sirce E. Owen, Director, Executive Office for
Immigration Review; and

Todd Blanche, Acting Attorney General of the
United States,

Respondents.

Case No.: _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

ORAL ARGUMENT
REQUESTED

Expedited Hearing Requested

PETITION FOR WRIT OF HABEAS CORPUS

Haron v. Rokosky, et al.

INTRODUCTION

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2 1. Abaker Haron (“Mr. Haron” or “Petitioner”) entered the United States on August 11,
3 2024, [REDACTED]

4 [REDACTED]. He was detained upon arrival and has
5 been in the custody of the U.S. Department of Homeland Security (“DHS”), Immigration and
6 Customs Enforcement (“ICE”) in Eloy, Arizona, ever since.

8 2. Mr. Haron passed an initial Credible Fear Interview. However, on May 20, 2025, the
9 Immigration Judge (“IJ”) denied his applications for asylum, withholding of removal, and
10 protection under the Convention Against Torture. The Board of Immigration Appeals (“BIA”)
11 affirmed that decision on November 6, 2025. Mr. Haron timely filed a Petition for Review
12 with the Ninth Circuit Court of Appeals, where a temporary stay is in place.

15 3. As of the date of this petition, Mr. Haron has been detained at the Eloy Detention
16 Center in Eloy, Arizona, for over 600 days.

18 4. ICE claims the authority to indefinitely detain Petitioner without a bond hearing under
19 8 U.S.C. § 1225(b). In separate subsections, that statute provides for the incarceration of
20 asylum seekers who pass a credible fear interview “for further consideration of the application
21 for asylum,” *id.* § 1225(b)(1)(B)(ii), as well as incarceration of all noncitizens whom an
22 immigration official believes are not “clearly and beyond a doubt entitled to admission for a
23 proceeding under 1229a of this title.” *Id.* § 1225(b)(2)(A). Collectively, DHS refers to these
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26 1 The nation of Sudan has been at civil war since April 15, 2023. *See Civil War in*
27 *Sudan*, Council on Foreign Relations (Updated Feb. 18, 2026), [https://www.cfr.org/global-](https://www.cfr.org/global-conflict-tracker/conflict/power-struggle-sudan)
28 [conflict-tracker/conflict/power-struggle-sudan](https://www.cfr.org/global-conflict-tracker/conflict/power-struggle-sudan). *See also What is the Extent of Sudan’s*
Humanitarian Crisis?, Council on Foreign Relations (Updated Nov. 6, 2025),
<https://www.cfr.org/articles/what-extent-sudans-humanitarian-crisis>.

1 noncitizens as “arriving aliens.” 8 C.F.R. § 1.2.

2 5. This petition and complaint bring an as-applied challenge to the application of 8 U.S.C.
3 § 1225(b)(1) to Petitioner based on the particular facts and circumstances of his case.

4 6. Respondents interpret 8 U.S.C. § 1225(b) to require mandatory detention without a
5 bond hearing of all arriving aliens, for the indefinite length of time necessary to complete
6 removal proceedings, even if that time becomes unreasonably prolonged. In *Matter of M-S-*,
7 the Attorney General interpreted 8 U.S.C. § 1225(b)(1)(B)(ii) to require mandatory detention
8 without bond hearings for asylum seekers who were initially subject to expedited removal but
9 later transferred to full removal proceedings after establishing a credible fear. 27 I. & N. Dec.
10 509, 515-17 (2019). Under *Matter of M-S-*, the only possibility for release available to
11 noncitizens in this category is a discretionary grant of parole by DHS for “urgent humanitarian
12 reasons or significant public benefit” pursuant to 8 U.S.C. § 1182(d)(5). On information and
13 belief, DHS has effectively ceased granting parole to arriving aliens as a result of a directive
14 issued in February 2025 that the Director of ICE must personally sign off on any release of a
15 detainee from ICE custody,² which serves to implement the Trump administration’s executive
16 orders entitled “Securing Our Borders,” which directs ICE to detain noncitizens “to the
17 maximum extent authorized by law,” and “Protecting the American People Against Invasion.”
18 Exec. Order No. 14165, 90 C.F.R. 8467 (2025); Exec. Order No. 14159, 90 C.F.R. 8443
19 (2025). Furthermore, as discussed in more detail below, even if this parole process were an
20 option, it would do nothing to ensure that Petitioner’s constitutional rights are fulfilled.

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27 ² See “Reported: ICE Limits Release of Immigrant Detainees, Requiring Sign-off by
28 ICE Director,” *Guttentag, Immigration Policy Tracking Project*,
<https://immpolicytracking.org/policies/reported-ice-tightens-and-limits-immigrant-release-rules/>.

7. Accordingly, at no point during the 600-plus days that Petitioner has been incarcerated by ICE has the government provided him with a single hearing to determine whether he poses such a danger or flight risk to warrant prolonged detention by ICE. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This is even though Petitioner is litigating his meritorious appeal and his removal from the United States is not reasonably foreseeable because the Republic of Sudan remains at war and no third alternate countries of removal were designated.

8. Without this court's intervention, Mr. Haron faces the prospect of several more months, if not years, of unreviewed civil detention as he continues to oppose his removal to Sudan and to alternative third countries.

9. Mr. Haron's mental and physical health have substantially deteriorated since entering ICE custody, and his religious observance has been unconstitutionally inhibited. He is facing dehumanizing conditions of confinement, inadequate access to healthcare³, and threats to his

³ See, e.g., Lauren-Brooke Eisen, *How ICE's Budget Boom Is Changing Immigration Detention*, Brennan Center (Feb. 24, 2026), <https://www.brennancenter.org/our-work/research-reports/how-ices-budget-boom-changing-immigration-detention> ("Detainees have reported inhumane conditions, including rotten food, inadequate access to water, improper medical care, and physical abuse."); Alexandra Martinez, *Advocates Warn of Worsening Conditions In ICE Custody As Detainees Take Extraordinary Risks To Be Heard*, PRISM (Feb. 16, 2026), <https://prismreports.org/2026/02/16/ice-detainees-detention-centers/> ("Among the most serious concerns raised by advocates are reports of delayed or denied medical care."); Haddy Gasama, *Detained Immigrants Detail Physical Abuse and Inhumane Conditions at Largest Immigration Detention Center in the U.S.*, ACLU (Updated Jan. 26, 2026), <https://www.aclu.org/news/immigrants-rights/detained-immigrants-detail-physical-abuse-and-inhumane-conditions-at-largest-immigration-detention-center-in-the-u-s> ("The grim reality unfolding at Fort Bliss should serve as a stark warning: the Trump administration's mass detention surge is not just unsustainable, but fundamentally dangerous."); Aaron Reichlin-Melnick, *New Report Details ICE's Expanding and Increasingly Unaccountable Detention System*, American Immigration Council (Jan. 23, 2026), <https://www.americanimmigrationcouncil.org/blog/ice-expanding-detention-system/> ("With more arrests than detention beds to hold people, ICE facilities saw significant overcrowding in 2025, worsening and substandard medical care, growing complaints of

1 religious observance⁴. Each day that Petitioner is detained, he suffers irreparable harm.

2 10. Mr. Haron therefore seeks an order from this Court directing his outright release from
3 custody because he is neither a danger nor a flight risk and therefore does not satisfy either of
4 the criteria for being held in further civil custody. Alternatively, should the Court find that
5 outright release is not appropriate, the Court should conduct a bond hearing or, in the
6 alternative, direct the U.S. Department of Justice (DOJ), Executive Office for Immigration
7 Review (EOIR), to provide Petitioner with a bond hearing before a neutral adjudicator that
8 comports with due process, where (1) DHS must carry the burden to establish, by clear and
9 convincing evidence, that his continued prolonged incarceration is necessary and (2) the
10 neutral adjudicator, in rendering a decision, is required to consider alternatives to detention,
11 Petitioner's ability to pay a bond, and the amount of time that he has already been physically
12 confined at an immigration jail.
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18 abusive conditions, and documented extensive violations of detention standards.”); *Medical*
19 *Neglect, Strip Searches, and Abuse; Deadly and Dehumanizing Conditions at Eloy Detention*
20 *Center*, Florence Immigrant & Refugee Rights Project (Jan. 6, 2026), [https://firrp.org/wp-](https://firrp.org/wp-content/uploads/2026/01/Final_December-2025_Deadly-and-Dehumanizing-Conditions-in-the-Eloy-Detention-Center_June-2024-thru-Nov-2025.pdf)
21 [content/uploads/2026/01/Final_December-2025_Deadly-and-Dehumanizing-Conditions-in-](https://firrp.org/wp-content/uploads/2026/01/Final_December-2025_Deadly-and-Dehumanizing-Conditions-in-the-Eloy-Detention-Center_June-2024-thru-Nov-2025.pdf)
22 [the-Eloy-Detention-Center_June-2024-thru-Nov-2025.pdf](https://firrp.org/wp-content/uploads/2026/01/Final_December-2025_Deadly-and-Dehumanizing-Conditions-in-the-Eloy-Detention-Center_June-2024-thru-Nov-2025.pdf) (“This year, at least 25 people
23 have died while in ICE custody, making it one of the deadliest years on record.⁷ Clients
24 report that they face extensive barriers when attempting to obtain care for medical
25 conditions, chronic illnesses, and disabilities, often putting them in life-threatening
26 situations.”).

27 ⁴ See, e.g., Annual Report on the State of Religious Liberty in the United States, The
28 Committee for Religious Liberty of the U.S. Conference of Catholic Bishops (Feb. 17, 2026),
https://www.usccb.org/resources/Annual_Report_Religious_Liberty_2026.pdf. Elizabeth
Reiner Platt, *Religious Liberty and Immigration: An Analysis of Recent Legal Claims*,
Canopy Forum (Nov. 8, 2025), [https://canopyforum.org/2025/11/08/religious-liberty-and-](https://canopyforum.org/2025/11/08/religious-liberty-and-immigration-an-analysis-of-recent-legal-claims/)
[immigration-an-analysis-of-recent-legal-claims/](https://canopyforum.org/2025/11/08/religious-liberty-and-immigration-an-analysis-of-recent-legal-claims/) (reporting on multiple lawsuits filed by
immigrants being held in detention facilities, alleging violations of the Religious Freedom
Restoration Act of 1993).

JURISDICTION

11. Jurisdiction is proper pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, 28 U.S.C. § 1361, and 5 U.S.C. § 702. This action arises under the Due Process clause of the Fifth Amendment of the United States Constitution, and under the Immigration and Nationality Act of 1952 (INA). The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. Congress has preserved judicial review of challenges to mandatory immigration detention. *See, e.g., Nielsen v. Preap*, 139 S. Ct. 954, 961-62 (2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents-Defendants “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents-Defendant to file a return “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” *Id.* (emphasis added).

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

VENUE

14. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions giving rise to Petitioner's claims occurred in the district. Petitioner is confined at the Eloy Detention Center in Eloy, Arizona, within this District.

15. Because Petitioner is detained in Pinal County, assignment to the Phoenix Division of this Court is proper under Local Rule 77.1.

PARTIES

16. Petitioner Abaker Haron is currently detained by Respondents under 8 U.S.C. § 1225(b)(1)(B)(ii) because his appeal of the Agency's decision is pending before the Ninth Circuit Court of Appeals and a temporary judicial stay of removal is in place. He has been detained since August 11, 2024, without any individualized inquiry into ICE's justification for his ongoing detention. In the instant petition, he challenges his "present physical confinement." *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024).

17. Respondent Eric Rokosky is the Warden at the Eloy Detention Center. As warden of the detention center in which Mr. Haron is confined, Mr. Rokosky is Mr. Haron's immediate custodian. He is named in his official capacity.

18. Respondent Christopher McGregor is the Acting Field Office Director for the Phoenix Field Office of ICE ERO. Mr. McGregor resides in this district for venue purposes because his official duties are performed in this district. Mr. McGregor is the local ICE official with legal custody of Mr. Haron. He is named in his official capacity.

19. Respondent Todd M. Lyons is the Acting Director Performing the Duties of the Director for ICE. Respondent Lyons is responsible for ICE's policies, practices, and

1 procedures, including those relating to the detention of immigrants. Respondent Lyons is a
2 legal custodian of Mr. Haron. He is named in his official capacity.

3 20. Respondent Markwayne Mullin is the Secretary of the Department of Homeland
4 Security (“DHS”), and is responsible for overseeing the Department and its sub-agency, ICE,
5 and has ultimate responsibility for the detention of noncitizens in civil immigration custody.
6 Secretary Mullin is a legal custodian of Mr. Haron. He is named in her official capacity.

7 21. Respondent Sirce E. Owen is the Director of EOIR, which administers the immigration
8 courts and the BIA. She is named in her official capacity.

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

15 EXHAUSTION OF ADMINISTRATIVE REMEDIES

16 23. “Exhaustion can be either statutorily or judicially required.” *Acevedo-Carranza v.*
17 *Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004). Although 28 U.S.C. § 2241 “does not specifically
18 require petitioners to exhaust direct appeals before filing petitions for habeas corpus,” the
19 Ninth Circuit “require[s], as a prudential matter, that habeas petitioners exhaust available
20 judicial and administrative remedies before seeking relief under § 2241.” *Castro-Cortez v.*
21 *INS*, 239 F.3d 1037, 1047 (9th Cir. 2001) (cleaned up), *abrogated on other grounds by*
22 *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Court “may waive the prudential
23 exhaustion requirement if administrative remedies are inadequate or not efficacious, pursuit
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1 of administrative remedies would be a futile gesture, irreparable injury will result, or the
2 administrative proceedings would be void.” *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th
3 Cir. 2017) (cleaned up).

4 24. Petitioner asserts that exhaustion should be waived in this case because administrative
5 remedies are (1) futile and (2) his continued detention results in irreparable harm.

6 25. Petitioner has been detained for over 19 months without an individualized
7 determination before a neutral adjudicator as to whether his detention is justified.

8 26. Courts have repeatedly waived any exhaustion requirement in cases where individuals
9 in immigration custody (1) demonstrate that any administrative appeal would be futile, and
10 (2) allege that their continued detention is unlawful. *See, e.g., Esquivel-Ipina v. LaRose*, -- F.
11 Supp. 3d --, 2025 WL 2998361, at *3-4 (S.D. Cal. Oct. 24, 2025) (exhaustion not required
12 where futile); *Altamirano Ramos v. Lyons*, 809 F. Supp. 3d 1015, 1021 (C.D. Cal. Nov. 12,
13 2025) (same).

14 27. Administrative relief is futile in Petitioner’s case. As explained further below, because
15 he is detained under 8 U.S.C. § 1225(b), he is statutorily ineligible for bond and can be
16 subjected to continued incarceration without even the possibility of a bond hearing.
17 Furthermore, the process for requesting parole from ICE is inadequate and currently
18 nonexistent in light of the Trump administration’s executive orders. As described above,
19 *supra* n. 2, the Trump administration has adopted a policy wherein the ICE Director must
20 personally sign off on the release of any detainee from ICE custody. This has effectively
21 eliminated release on parole for immigration detainees. Furthermore, even if the parole
22 process were available to Petitioner, it does not provide due process. Parole does not provide
23 a neutral forum to contest the necessity of ongoing detention. Instead, it is a purely
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1 discretionary process, administered by ICE—the jailer. Neither the detained noncitizen nor
2 counsel are provided an in-person hearing to contest facts leading to the parole decision, and
3 no review of that decision is available. The Ninth Circuit has recognized that this wholly one-
4 sided process produces error-ridden results. *See Rodriguez v. Robbins*, 804 F.3d 1060, 1081
5 (9th Cir. 2015), *reversed on other grounds sub nom. Jennings v. Rodriguez*, 583 U.S. 281
6 (2018) (identifying denials of parole “based on blatant errors: In two separate cases . . .
7 officers apparently denied parole because they had confused Ethiopia with Somalia. And in a
8 third case, an officer denied parole because he had mixed up two detainees’ files.”);
9 *Nadarajah v. Gonzales*, 443 F.3d 1069, 1082 (9th Cir. 2006) (finding that DHS abused its
10 authority by denying parole). Additionally, release on parole is only available for “urgent
11 humanitarian reasons or significant public benefit,” 8 U.S.C. § 1182(d)(5)(A); *see also* 8
12 C.F.R. § 212.5(b). Neither of those criteria evaluate the constitutionally permissible rationales
13 for continued, prolonged detention during removal proceedings: whether the detained
14 noncitizen is a flight risk or danger to his community.

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18 28. More importantly, every day that Petitioner remains incarcerated causes him harm that
19 cannot be repaired. His continued incarceration puts his physical and mental health at greater
20 risk, further warranting a finding of irreparable harm and the waiver of the prudential
21 exhaustion requirement. *See De Paz Sales v. Barr*, No. 19-CV-07221-KAW, 2020 WL
22 353465, at *4 (N.D. Cal. Jan. 21, 2020) (noting that the petitioner “continues to suffer
23 significant psychological effects from his detention, including anxiety caused by the threats
24 of other inmates and two suicide attempts,” in finding that petitioner would suffer irreparable
25 harm warranting waiver of exhaustion requirement).

STATEMENT OF FACTS

Mr. Haron's Life in Sudan

29. Mr. Haron, a Black Masalit man and a citizen and national of the Republic of the Sudan ("Sudan"), was born in New Halfa, Sudan, on or around [REDACTED]. Exhibit ("Exh.") A, Declaration of Abaker Haron, February 12, 2026 ("AH Decl."), ¶1.

30. After graduating with a Bachelor of Arts in Economics from Sudan University of Science and Technology, Mr. Haron returned to Misterei, and to his family, where he started an educational initiative. Exh. E, Declaration of Abaker Haron, February 7, 2025, ¶7. Mr. Haron and some allies raised money through public donations collected at the mosque and market and repaired the village school and began teaching in 2017. *Id.* at ¶8-10. Mr. Haron enlisted three other teachers, two women (Zahaya Albaker and Fatima Mohamed Adam) and one man (Al-Tahib Mohammed Ibrahim). *Id.*

31. On or around January 2019, [REDACTED]
[REDACTED]
[REDACTED], [REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]
[REDACTED] *Id.* at ¶11.

32. On or around November 10, 2020, [REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]. [REDACTED]. [REDACTED]
[REDACTED]. *Id.* at ¶27.

1 33. [REDACTED] §. [REDACTED]

2 [REDACTED] §. [REDACTED]

3 [REDACTED] §. [REDACTED] §. [REDACTED] §.

4 [REDACTED] §. [REDACTED]

5 [REDACTED] §. [REDACTED]

6 [REDACTED] §. [REDACTED]

7 [REDACTED] §. *Id.* at ¶36-38.

8 [REDACTED]

9 34. [REDACTED]

10 [REDACTED] §. *Id.* at ¶16-21, 28-34; Exh. D, Medical and Psychological Declaration of

11 Elisa Troyer, MD, MPH, ¶23-32, 50-52.

12 35. [REDACTED]

13 [REDACTED] §. [REDACTED]

14 [REDACTED] §. [REDACTED] §. [REDACTED]

15 [REDACTED] §. [REDACTED]

16 [REDACTED] §. [REDACTED]

17 [REDACTED] §. *Id.* at ¶16-21.

18 36. [REDACTED]

19 [REDACTED] §. [REDACTED] §. [REDACTED]

20 [REDACTED] §. [REDACTED]

21 [REDACTED]

22 [REDACTED] §. *Id.*

23 37. [REDACTED]

24 [REDACTED] §. [REDACTED]

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1 Honduras, Guatemala, and Mexico, where he was assaulted and robbed by men posing as
2 police officers. He then crossed into the United States near Lukeville, Arizona, with a group
3 of thirty-seven men and women. *Id.* at ¶47-51

4 ***Mr. Haron Sought Asylum in the United States.***

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6 46. Mr. Haron entered the United States at or near Lukeville, Arizona on August 11, 2024.
7 That day, he received a Notice and Order of Expedited Removal under 8 U.S.C. § 1225(b)(1),
8 8 U.S.C. § 1182(a)(7)(A)(i)(I). Four days later, on August 15, 2024, he was found to have a
9 credible fear of persecution.

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11 47. Mr. Haron was served with a Notice to Appear (“NTA”) by Customs and Border
12 Protection Agent, Abram Caballero on August 23, 2024. The NTA charged Mr. Haron as
13 subject to removal under 8 U.S.C. § 1182(a)(7)(A)(I) and § 1182(a)(6)(A)(i). During
14 proceedings, the Republic of Sudan was designated as country of removal. *Id.*

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16 48. An I-589 application for asylum, withholding of removal, and protection under the
17 Convention Against Torture (“CAT”) was submitted to the court on October 3, 2024. Written
18 Pleadings admitting all the allegations in the NTA and conceding the charge of removability
19 were submitted on August 13, 2024. Respondent filed an updated statement with the court on
20 November 18, 2024. Respondent retained counsel in December 2024 and filed an updated
21 statement in February 2025. Respondent engaged country conditions and torture expertise in
22 March 2025. Exh. A, ¶3-5.

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25 49. A hearing on the merits occurred on April 8, 2025, at 1:00 p.m. before IJ Michael
26 Schnitzer of Eloy Immigration Court. IJ Schnitzer found Mr. Haron not to be credible and
27 denied all relief on May 20, 2025. Mr. Haron submitted a motion to reconsider, which was
28 also denied. *Id.* at ¶4.

1 50. Mr. Haron timely appealed the IJ's denial of his protection claim to the Board of
2 Immigration Appeals ("Board") on June 12, 2025. He appealed the IJ's credibility findings,
3 the finding on persecution, and the application of the Circumvention of Lawful Pathways
4 regulation. The Board dismissed the appeal on November 6, 2025. *Id.* at ¶5.

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6 51. Mr. Haron timely filed a petition for review at the Ninth Circuit Court of Appeals. *Id.*;
7 Exh. B Declaration of Attorney Elizabeth Bradley, February 8, 2026, ¶3.

8 52. As of April 5, 2026, Mr. Haron has been detained for over 600 days.

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10 ***ICE's Prolonged, Unreviewed Incarceration of Mr. Haron and the Conditions of His***
11 ***Confinement***

12 53. Mr. Haron's detention since August 2024 has resulted in prolonged, excessive,
13 unreviewed detention, and exposed him to intolerable conditions and violations of his
14 constitutional rights. Exh. A at ¶6-16; Exh. C, Declaration of Attorney Joanna Lopez,
15 February 9, 2026, ¶¶ 3, 7-12.

16 54. Mr. Haron was placed in a detention cell with another individual who had tuberculosis
17 ("TB") and subsequently became infected. After a period of time complaining first about his
18 ailing cellmate and lack of attention to his cellmate's health, and a lengthy and unreasonable
19 delay seeking a consultation with a trained professional including communications with his
20 attorney, he was eventually seen by a physician and tested for TB. He was diagnosed with
21 Stage Two TB and provided a three-month course of antibiotics to treat his condition. Exh. A
22 at ¶6-9; Exh. C at ¶7-11.

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25 55. But Mr. Haron's treatment was only the beginning of a second ordeal. Because his
26 illness and treatment overlapped with the Holy Month of Ramadan, he requested reasonable
27 and medically permissible religious accommodations, namely, to take his medication between
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1 the hours of sundown and sun-up, consistent with his Islamic beliefs. But one nurse in Eloy
2 did not care for his religion and denied him his religious accommodation. She yelled at him
3 and chased him from her clinic office when he asked to postpone his morning medication
4 until dusk of the same day. This mistreatment occurred several times in rapid succession until
5 his attorneys intervened on his behalf and threatened to file a formal complaint. Exh. A at ¶8,
6 10; Exh. C at ¶7-11.

8 56. That Mr. Haron was first exposed to and then contracted TB is hardly surprising
9 considering the Eloy Detention Center's well-documented abuses deficiencies in terms of
10 basic health care and hygiene.⁵ Moreover, that Mr. Haron's religious beliefs were belittled
11 and insulted and his observance inhibited by Eloy's staff is equally unsurprising. *Id.*

13 57. The Eloy Detention Center is an immigration detention center owned and operated
14 for-profit by CoreCivic in Eloy, Arizona. Allegations about substandard, inadequate and
15 "medical care, excessive lockdowns, unsanitary living conditions, inadequate access to
16 showers and recreation, and unhygienic food service operations," are known to this court.
17 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at*13 (D. Ariz.
18 Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*,
19 No. CV-25-02157-PHX-DLR (CDB), 2025 WL2349133 (D. Ariz. Aug. 13, 2025) (citations
20 omitted).

23 58. Over the past decade, several organizations have documented and filed complaints
24 with oversight agencies regarding severe abuses at Eloy. Some organizations—including
25 FIRR and the Detention Watch Network, have similarly prepared public-facing reports to
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28 ⁵ See fn. 3, *supra*, *Medical Neglect, Strip Searches, and Abuse* (2025 Report).

document their findings, which include the following:

- a. In its most recent report⁶, FIRR reported that, as of the date the report was finalized, at least 25 people died while in the custody of ICE in 2025, making it the deadliest year on record⁷. One of those deaths—that of a 45-year-old Mr. Serawit Dejene from Ethiopia—occurred on January 29, 2025, due to inadequate and delayed medical care at Eloy Detention Center.⁸
- b. Mr. Serawit Dejene’s death was at least the 17th death ever reported at Eloy.⁹
- c. Eloy Detention Center has documented instances of poor medical care and delays in accessing specialized medical care, unsanitary dining conditions, inadequate laundry services, frequent lockdowns, improper use of suicide watch and segregation, and verbal and physical abuse by staff.¹⁰
- d. Advocates and individuals formerly detained at Eloy have repeatedly highlighted the facility’s alarming negligence, particularly in medical emergencies.¹¹
- e. People detained at Eloy have long been subjected to a climate of abuse, intimidation,

⁶ *Medical Neglect, Strip Searches, and Abuse: Deadly and Dehumanizing Conditions in the Eloy Detention Center (June 2024-November 2025)*, FIRR (Jan. 6, 2026), <https://firrp.org/medical-neglect-strip-searches-and-abuse-deadly-and-dehumanizing-conditions-in-the-elyo-detention-center-june-2024-november-2025/>.

⁷ All said, 33 detainees died in ICE custody in 2025. Jazmine Ulloa, et al., *Deaths in ICE Custody Are Growing. ‘They Let Him Rot in There.’*, New York Times (Mar. 29, 2026), <https://www.nytimes.com/2026/03/29/us/ice-detention-deaths-immigrants.html> (last accessed Apr. 1, 2026). As of March 31, 2026, an additional 14 ICE detainees have died since January 1. See Laura Strickler, et al., *14 ICE Detainees Have Died So Far in 2026*, NBC News (Mar. 31, 2026), <https://www.nbcnews.com/politics/immigration/14-ice-detainees-died-far-2026-rcna265843> (last accessed Apr. 1, 2026).

⁸ *Medical Neglect*, supra note 3, at 2, 6.

⁹ *Anthology of Abuse: a Legacy of Failed Oversight and Death at the Eloy Detention Center*, FIRR October 2024, available at: https://www.detentionwatchnetwork.org/sites/default/files/reports/Anthology%20of%20Abuse%20-%20A%20Legacy%20of%20Failed%20Oversight%20and%20Death%20at%20the%20Eloy%20Detention%20Center_.pdf (“Today Eloy has the capacity to detain 1,550 individuals in the custody of [ICE] and has gained notoriety as the ‘deadliest immigration detention center in the U.S.,’ with at least 16 reported deaths, including five suicides.”) (hereinafter “*Anthology of Abuse*”).

¹⁰ *Medical Neglect*, supra note 3, at 7-8; *Anthology of Abuse*, supra note 5, at 2.

¹¹ *Medical Neglect*, supra note 3, at 8. See also Raphael Romero Ruiz, *Safety, Medical Care, Overcrowding Top Worries at Eloy Detention Center*, AZ Central (Jul. 28, 2025), <https://www.azcentral.com/story/news/politics/immigration/2025/07/28/migrants-at-elyo-center-worry-over-safety-medical-care-overcrowding/85252920007/> (last accessed Apr. 1, 2026).

1 and fear, exacerbated by an unprecedented series of mysterious and unacknowledged
2 deaths that have sparked outrage and protest.¹²

- 3 f. The Eloy Detention Center has consistently failed to comply with detention standards.
4 In a 2024 inspection conducted by ICE's own Office of Detention Oversight,
5 inspectors uncovered 29 deficiencies across five of the 13 evaluated detention
6 standards. Most notably, these failures included serious lapses in medical care.¹³

7 59. The conditions of confinement at the Eloy Detention Center have been dehumanizing,
8 on par, he feels, with the conditions faced during his criminal incarceration in Sudan. Exh. A
9 at ¶10-15.

10 60. Mr. Haron, like his peers, is also subject to random and invasive searches. *Id.* at ¶13.
11 His cell is also randomly searched without warning or apparent justification. *Id.*

12 61. DHS and ICE have civilly incarcerated Mr. Haron for nineteen months and counting.
13 Mr. Haron's mental health, documented extensively by a clinical psychologist, has further
14 deteriorated while at Eloy—both his anxiety and depression have worsened. Exh. D at ¶47-
15 49, 52-53. He has lost weight since entering ICE custody a year ago. Exh. A at ¶9 ¶

16 62. Mr. Haron will remain detained for the indefinite future absent intervention by this
17 court as he pursues all his avenues for relief, as described below.

18 ***Mr. Haron's Pending Appellate Proceedings***

19 63. Mr. Haron is pursuing relief in his current immigration proceedings because he fears
20 being tortured or killed if he were to be removed to Sudan. He has timely complied with all
21 deadlines in his immigration proceedings. He is committed to continuing his immigration case
22 and is currently petitioning for review of the Board's affirmance of the immigration judge's
23 decision at the Ninth Circuit. *See* Exh. A, at ¶5; Exh. B, at ¶3-6. A temporary stay of removal
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25
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28 ¹² *Medical Neglect*, supra note 3, at 10-13; *Anthology of Abuse*, supra note 5, at 3.

¹³ *Anthology of Abuse*, supra note 5, at 5.

1 is in place. If granted, Mr. Haron will remain detained pursuant to 8 U.S.C. § 1225(b)(1), and
 2 if it is denied, Mr. Haron's detention authority will shift to § 1231(a). Even then, detention
 3 (or re-detention) will only be justified if Mr. Haron's removal is likely to occur in the
 4 reasonably foreseeable future. That is unlikely to happen as long as the Republic of Sudan
 5 remains at war.
 6

7 64. As Mr. Haron vigorously fights for his right to remain in the United States, he faces
 8 the prospect that he will remain detained for years beyond the 19 months he has already been
 9 confined without any review of the necessity for his incarceration. It is for this reason he seeks
 10 relief from this Court via the instant habeas petition. Exh. B, at ¶6-9.
 11

12 LEGAL FRAMEWORK

13 **A. Statutory and Regulatory Framework during the Pendency of Removal** 14 **Proceedings Including Judicial Review**

15 65. Noncitizens are detained both during and after removal proceedings pursuant to one
 16 of four statutory provisions: 8 U.S.C. §§ 1226(a), 1226(c), 1225(b), and 1231(a). "A
 17 noncitizen's place 'within this statutory scheme can affect whether his detention is mandatory
 18 or discretionary, as well as the kind of review process available to him if he wishes to contest
 19 the necessity of his detention.'" *Avilez v. Garland*, 69 F.4th 525 (9th Cir. 2023), *quoting*
 20 *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008).
 21

22 66. Under § 1225, a noncitizen "who 'arrives in the United States,' or 'is present' in this
 23 country but 'has not been admitted,' is treated as 'an applicant for admission.'" *Jennings v.*
 24 *Rodriguez*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)).
 25

26 67. All noncitizens "who are applicants for admission" or who are "otherwise seeking
 27 admission or readmission to or transit through the United States shall be inspected by
 28

1 immigration officers” to assess whether they may be admitted into the United States. 8 U.S.C.
2 § 1225(a)(3). Specifically, the inspecting officer must determine whether an applicant for
3 admission is covered by either § 1225(b)(1) or (b)(2). *See Jennings*, 583 U.S. at 287. Both
4 subsections authorize detention pending removal proceedings in certain circumstances.

5
6 68. Section 1225(b)(1) applies to noncitizens who are initially deemed inadmissible under
7 8 U.S.C. § 1182(a)(6)(C) or (a)(7) due to fraud, misrepresentation, or lack of valid
8 documentation. *See* 8 U.S.C. § 1225(b)(1)(A)(i). Another provision, § 1225(b)(1)(A)(iii),
9 applies to certain noncitizens designated by the Secretary of Homeland Security who are later
10 determined to be inadmissible under § 1182(a)(6)(C) or (a)(7) and who were not continuously
11 present in the United States for the two-year period prior to that determination.

12
13 69. Section 1225(b)(2) covers all other “applicant[s] for admission” who are “seeking
14 admission,” with limited exceptions. *See* 8 U.S.C. § 1225(b)(2)(A)-(B).

15
16 70. A noncitizen covered by § 1225(b)(1) is subject to expedited removal and will be
17 “removed from the United States without further hearing or review” unless they claim a right
18 to asylum. *Id.* § 1225(b)(1)(A)(i)-(ii).

19
20 71. If a noncitizen covered by § 1225(b)(1) expresses a fear of return or otherwise
21 expresses an intent to apply for asylum, he or she “shall” be detained pending consideration
22 of that claim. *Id.* § 1225(b)(1)(B)(ii). Individuals covered by this provision detained pursuant
23 to § 1225(b)(1) even after passing a Credible Fear Interview and being placed in removal
24 proceedings under § 1229a. *Jennings*, 583 U.S. at 287.

25
26 72. A noncitizen covered by § 1225(b)(2) is not subject to expedited removal and is instead
27 placed into “standard” removal proceedings under 8 U.S.C. § 1229a, which include an
28 evidentiary hearing before an immigration judge, the right to counsel, and the right to seek

1 review by the Board of Immigration Appeals and a federal court of appeals. *Id.* §
2 1225(b)(2)(A); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020).

3 73. Noncitizens covered by § 1225(b)(2) “shall be detained” if an immigration officer
4 “determines that [they are] not clearly and beyond a doubt entitled” to admission. 8 U.S.C. §
5 1225(b)(2)(A); *Thuraissigiam*, 591 U.S. at 287.

6
7 74. Finally, applicants for admission covered by either § 1225(b)(1) or (b)(2) may only be
8 temporarily released on parole “for urgent humanitarian reasons or significant public benefit,”
9 and solely at the discretion of DHS. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ 235.3(b)(2)(iii), §
10 235.3(c); *see also id.* at § 212.5(b); *Jennings*, 583 U.S. at 287. As such, IJs are fully divested
11 of jurisdiction to grant bond to detainees held under § 1225(b) or review DHS’s decision to
12 deny or terminate parole.

13
14 75. Petitioner has now been detained under 8 U.S.C. § 1225(b)(1) since August 11, 2024—
15 over 19 months. Seeking release on humanitarian parole from ICE is an inadequate remedy
16 and functionally unavailable, and Petitioner has no procedural protections outside of this
17 Court. *See Matter of M-S*, 27 I. & N. Dec. at 515-17. The only available remedy for
18 Petitioner’s unconstitutionally prolonged detention is through a writ of habeas corpus and/or
19 a complaint for declaratory and injunctive relief.
20
21

22 **B. The Detention of Noncitizens Must Comport with Due Process**

23 76. The Due Process Clause of the Fifth Amendment prohibits the government from
24 depriving individuals of their life, liberty, or property without due process of law. U.S. Const.
25 amend. V. “Freedom from imprisonment—from government custody, detention, or other
26 forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause
27 protects. *Id.* at 690; *see also United States v. Salerno*, 481 U.S. 739, 755 (1987) (“In our
28

1 society liberty is the norm, and detention prior to trial or without trial is the carefully limited
2 exception.”). “These protections apply to all persons within the United States, including
3 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent, and
4 to immigration detention as well as criminal detention.” *Hernandez*, 872 F.3d at 990 (internal
5 quotations omitted). The Supreme Court has long held that civil detention must not be punitive
6 or arbitrary, and generally must rest on an individualized determination of the necessity for
7 detention accompanied by fair procedural safeguards. Civil commitment is constitutional only
8 when there are “proper procedures and evidentiary standards,” including individualized
9 findings of dangerousness. *Kansas v. Hendricks*, 521 U.S. 346, 357-58 (1997); *see also*
10 *Foucha v. Louisiana*, 504 U.S. 71, 79 (1992) (noting individual’s entitlement to
11 “constitutionally adequate procedures to establish the grounds for his confinement”).

12 77. In the context of immigration detention, it is “well-settled” that “due process requires
13 adequate procedural protections to ensure that the government’s asserted justification for
14 physical confinement outweighs the individual’s constitutionally protected interest in
15 avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). “The
16 government has legitimate interests in protecting the public and in ensuring that noncitizens
17 in removal proceedings appear for hearings, but any detention incidental to removal must
18 ‘bear a reasonable relation to its purpose.’” *Hernandez*, 872 F.3d at 990 (citing *Zadvydas*, 533
19 U.S. at 690). In *Zadvydas*, the Court interpreted the statute governing detention after a final
20 order of removal to require the release of a noncitizen whose removal is not “reasonably
21 foreseeable.” *Id.* at 699-701. In doing so, the Court reaffirmed that, as with other types of
22 civil detention, immigration detention can only be imposed with strong procedural safeguards
23 to ensure that it serves a legitimate purpose. *See, e.g., id.* at 691-92 (noting that preventive
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1 detention based on dangerousness is permissible “only when limited to specially dangerous
2 individuals and subject to strong procedural protections”).

3 78. The Court carved out a narrow exception to the general rule that civil detention must
4 be accompanied by an individualized hearing in *Demore v. Kim*, 538 U.S. 510 (2003). In
5 *Demore*, the Court upheld 8 U.S.C. § 1226(c) against a facial challenge to the statute, in a
6 case where the noncitizen was detained within a day of his release from criminal
7 incarceration. *Id.* at 513-14; *see also* Brief for Petitioner at 4, *Demore v. Kim*, 538 U.S. 510
8 (2003) (No. 01-1491), 2002 WL 31016560.

9
10
11 79. The *Demore* Court held, based on the factual record before it, that “Congress,
12 justifiably concerned that deportable criminal [noncitizens] who are not detained continue to
13 engage in crime and fail to appear for their removal hearings in large numbers, may require
14 that [such noncitizens] be detained for the brief period necessary for their removal
15 proceedings.” *Id.* at 513 (emphasis added); *see also id.* at 526 (noting the “narrow” nature of
16 the mandatory detention statute). The “brief period” of detention in *Demore* was four months.

17
18 80. While the Supreme Court held in *Demore* that *brief* mandatory detention under 8
19 U.S.C. § 1226(c) without a bond hearing did not violate due process, this holding was
20 specifically premised on the short period for which the noncitizen had been detained, as well
21 as—now discredited—evidence that, at the time, § 1226(c) detention was neither indefinite
22 nor prolonged. 538 U.S. at 529-531 (relying on evidence provided by the Government that, at
23 the time, removal proceedings were completed in an average time of 47 days and a median
24 time of 30 days in 85% of cases, and that the remaining 15% of cases in which there was an
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1 appeal were completed in an average of four months).¹⁴

2 81. Justice Kennedy acknowledged in his concurrence that “if continued detention
3 bec[omes] unreasonable or unjustified,” a noncitizen could be “entitled to an individualized
4 determination as to his risk of flight or dangerousness.” 538 U.S. at 532 (Kennedy, J.,
5 concurring); *see also id.* at 532-33 (“Were there to be an unreasonable delay by the INS in
6 pursuing and completing deportation proceedings, it could become necessary to then inquire
7 whether the detention is not to facilitate deportation, or to protect against risk of flight or
8 dangerousness, but to incarcerate for other reasons.”). Since *Demore*, the time that each
9 immigrant spends in detention has risen substantially. *See, e.g., Diop v. ICE/Homeland Sec.*,
10 656 F.3d 221, 234 (3d Cir. 2011) (explaining that mandatory detention becomes more
11 constitutionally “suspect” as it extends beyond the brief detention periods considered by the
12 Supreme Court in *Demore*).

13 82. In 2018, the Supreme Court held that the Ninth Circuit erred by interpreting Sections
14 1226(c) and 1225(b) to require bond hearings as a matter of statutory construction. *Jennings*,
15 583 U.S. at 299-300. Because the Ninth Circuit has not decided whether the Constitution itself
16 requires bond hearings in cases of prolonged detention, the Court remanded for the Ninth
17 Circuit to address the issue. *Id.* at 312. The majority remanded to the lower courts to address

18 ¹⁴ While *Jennings v. Rodriguez* was being briefed, the government informed the Supreme
19 Court that it had “made several significant errors in calculating” the statistics which it
20 provided to the Court in *Demore* and which the Court relied upon in its decision. Letter from
21 Ian Heath Gershengorn, Acting Solicitor General, to Hon. Scott S. Harris, Clerk, Supreme
22 Court (Aug. 26, 2016), *Demore v. Kim*, 538 U.S. 510 (2003) (No. 01-1491), available at
23 <http://on.wsj.com/2mtjnUP>; *see also Jennings*, 583 U.S. at 343 (Breyer, J., dissenting) (“The
24 Government now tells us that the statistics it gave to the Court in *Demore* were wrong.
25 Detention normally lasts twice as long as the Government then said it did. And, as I have
26 pointed out, thousands of people here are held for considerably longer than six months
27 without an opportunity to seek bail.”).

1 the constitutional question in the first instance but expressed “grave doubts that any statute
2 that allows for arbitrary prolonged detention without any process is constitutional or that those
3 who founded our democracy precisely to protect against the government’s arbitrary
4 deprivation of liberty would have thought so.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th
5 Cir. 2018). Since then, the Ninth Circuit has affirmed that, as a matter of due process, certain
6 noncitizens may be due habeas relief in the form of a constitutionally compliant bond hearing.
7 *See, e.g., Avilez v. Garland*, 69 F.4th 525, 539 (9th Cir. 2023) (remanding proceedings to the
8 district court to adjudicate petitioner’s due process claims).

11 ARGUMENT

12 83. Petitioner’s continued detention without any process is contrary to our understanding
13 of fairness and justice, and in violation of his Fifth Amendment Due Process rights.

14 84. Due process requires that the government provide bond hearings to noncitizens whose
15 detention has become prolonged. Petitioner’s detention of over 19 months without a bond
16 hearing violates due process.

17 85. The Supreme Court has not yet considered the constitutionality of prolonged detention
18 under 8 U.S.C. § 1225(b). However, the District Court for the Western District of Washington
19 has directly considered the constitutionality of § 1225(b)(1)(B)(ii) on several occasions in
20 *Padilla v. ICE* and, in doing so, repeatedly expressed serious doubts about the
21 constitutionality of that section. Most recently, Judge Pechman determined
22 that asylum seekers have a right to bond hearings, concluding that “Due Process protects
23 against immigration detention that is not reasonably related to the legitimate purpose of
24 effectuating removal or protecting against danger and flight risk.” *Padilla v. ICE*, 704 F.
25 Supp. 3d 1163, 1172 (W.D. Wash. 2023) (citing *Zadvydas*, 533 U.S. at 690–94). In

1 concluding that noncitizens, like Petitioner, who had established a credible fear were eligible
2 for bond notwithstanding § 1225(b), the district court distinguished *Demore*. Judge Pechman
3 concluded that, compared to the class of noncitizens at issue in *Demore* for which “the
4 voluminous Congressional record ... justified denying bail given the substantial rate at which
5 such individuals either reoffended or absconded,” there were “no similar public safety
6 concerns or flight risk that might apply to those, like Plaintiffs, with bona fide asylum claims
7 and who desire to remain in the United States.” *Padilla*, 704 F. Supp. 3d at
8 1173 (citing *Demore*, 538 U.S. at 518–20). The district court also relied on information that
9 the length of detention for asylum seekers was much longer than that at issue
10 in *Demore*. *Padilla*, 704 F. Supp. 3d at 1173. Judge Pechman found that asylum seekers had
11 adequately alleged a due process claim given that they had a liberty interest in freedom from
12 confinement and there were not adequate procedures in place to test the legitimate need for
13 continued detention. *Id.* at 1174. The reasoning in *Padilla* applies with even greater force to
14 Petitioner, who has been detained for more than 19 months (several times the length of time
15 discussed in *Demore*).

16
17 86. Detention without a bond hearing becomes unconstitutional when it exceeds six
18 months. *See Demore*, 538 U.S. at 529–30 (upholding only “brief” detentions under Section
19 1226(c), which last “roughly a month and a half in the vast majority of cases in which it is
20 invoked, and about five months in the minority of cases in which the [noncitizen] chooses to
21 appeal”); *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the constitutionality of
22 detention for more than six months”). *See also Diouf II*, 634 F.3d 1085, 1091–92 (9th Cir.
23 2011) (“When detention crosses the six-month threshold and release or removal is not
24 imminent, the private interests at stake are profound.”).

1 87. The recognition that six months is a substantial period of confinement—and is the time
2 after which additional process is required to support continued incarceration—is deeply
3 rooted in our legal tradition. With few exceptions, “in the late 18th century in America crimes
4 triable without a jury were for the most part punishable by no more than a six-month prison
5 term...” *Duncan v. State of La.*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this
6 tradition, the Supreme Court has found six months to be the limit of confinement for a criminal
7 offense that a federal court may impose without the protection afforded by jury trial. *Cheff v.*
8 *Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to
9 six months as a benchmark in other contexts involving civil detention. *See McNeil*, 407 U.S.
10 at 249, 250-52 (recognizing six months as an outer limit for confinement without
11 individualized inquiry for civil commitment).

14 88. Nonetheless, even if the Court declines to impose a bright-line rule that six months of
15 detention without any form of due process is necessarily prolonged, there is ample authority
16 to support granting Petitioner a bond hearing in his particular circumstances. In prolonged
17 detention cases, district courts have treated and analyzed as-applied challenges to 8 U.S.C. §
18 1225(b) detention similarly to as-applied challenges raised by noncitizens detained under §
19 1226(c). *See, e.g., Jamal A. v. Whitaker*, 358 F.Supp.3d 853, 858 (D. Minn. 2019) (noting that
20 “it is not clear what, if anything, turns on” any Due Process differences between “aliens
21 detained under § 1225(b)(2)(A) . . . [and] aliens detained under other provisions[,]” as “neither
22 group of aliens can be detained indefinitely” and “most courts seem to apply pretty much the
23 same factors”); *Abdul-Samed v. Warden of Golden State Annex Det. Facility*, No. 1:25-CV-
24 00098-SAB-HC, 2025 WL 2099343, at *6 (E.D. Cal. July 25, 2025) (reasoning that the test
25 applied to § 1226(c) applies equally to noncitizens detained under § 1225(b)).

A. Petitioner's Continued Detention Violates His Rights to Substantive Due Process Rights

89. Mr. Haron's prolonged civil immigration detention is punitive and violates his right to substantive due process in three independent ways.

1. First, Mr. Haron's continued detention does not serve any nonpunitive governmental interest because Mr. Haron is neither a flight risk nor a danger to his community.

90. Civil immigration detention is not constitutionally permissible unless it is reasonably related to the purpose of preventing flight risk or danger to the community. *Demore*, 538 U.S. at 515; *Zadvydas*, 533 U.S. at 690. Here, continued detention serves neither interest, as Mr. Haron is neither.

i. Mr. Haron is not a flight risk.

91. If released, Mr. Haron will be on bond and under the sponsorship of the Casa Marianella, Austin, Texas. Under threat of detention and violation of bond, Mr. Haron must comply with all terms of his release. Exh. G, Correspondence from Maureen Lang, Casa Marianella, November 20, 2025; Exh. A at ¶16.

92. Moreover, Mr. Haron is fighting for his ability to stay in this country; he fears for his life in Sudan and is committed to winning his appeal. *Id.* at ¶17. Mr. Haron is represented by pro bono counsel at the Ninth Circuit and has a strong and well-supported appeal argument. *See* Exh. B at ¶8. He fears he will be persecuted, arrested, and again tortured or worse, killed, in Sudan due to multiple factors including his political opinion and his identity as a Masalit teacher. Exh. A at ¶17. His claims for relief are supported by a country conditions expert and a mental health professional; both submitted detailed written reports for Mr. Haron's April

1 2025 individual hearing. Exh. B at ¶8. Mr. Haron intends to pursue every appeal available to
2 him. Exh. A at ¶5.

3 93. As a result, Mr. Haron has every incentive to appear at any and all immigration
4 hearings and related appeals and he recognizes that the consequences of his failure to appear
5 are significant. Exh. A at ¶5. Members of his support team have pledged their time and
6 resources to personally ensure Mr. Haron has reliable transportation to all future hearings. *See*
7 Exh. B and C.

8
9 94. Beyond fighting his deportation, Mr. Haron has concrete plans to build a life in this
10 country that includes reuniting with his wife and child. Exh. A at ¶15.

11
12 95. From the day of his release, Mr. Haron plans to live at Casa Marianella in Austin,
13 Texas; Exh. A at ¶16.

14
15 **ii. Mr. Haron is not a danger to the community.**

16 96. Mr. Haron's has no criminal convictions and no history of violence. Indeed, he was
17 the recipient of extreme and targeted state-based persecution and violence, including heinous
18 torture.

19
20 97. Moreover, Mr. Haron has an exemplary record during his long and exhausting
21 detention in Eloy. *See* Exh. A.

22 **2. Second, even if the Court were to find that Mr. Haron presents some risk,**
23 **restrictions short of his continued physical confinement are sufficient to**
24 **mitigate any risk.**

25 98. Mr. Haron is entitled to a presumption that his continued civil confinement is
26 unlawfully punitive because the conditions are indistinguishable from, or worse, than those
27 of criminal custody. Mr. Haron's civil incarceration is excessive in relation to the
28

1 government's interest. *Doe*, 732 F. Supp. 3d at 1088 (explaining that due process requires, at
2 minimum, that the conditions of a civil detainee's confinement "must be less restrictive than
3 post-conviction criminal detention"); *id.* at 1089 (adding that "harsh conditions multiply the
4 burden on liberty for any given period."); *Cf. Jones*, 393 F.3d at 934. Indeed, while Mr. Haron
5 has been detained, he has been subjected to degrading and harmful conditions of confinement
6 including infection with TB, aggressive behavior from correctional officers, insufficient
7 medical care and access to religious accommodations. Exh. A at ¶6-15.

9
10 99. Moreover, even if the Court finds that Mr. Haron poses some risk of flight or danger
11 to the community, there are "less harsh" alternatives to continued physical custody available
12 to mitigate those risks. *Doe*, 732 F. Supp. 3d at 1088 (finding that ICE's GPS monitoring
13 program "can significantly mitigate flight risk and potentially mitigate any danger to the
14 community."); *Jones*, 393 F.3d at 934; *see also Thakker v. Doll*, Civ. No. 20-480, 2020 WL
15 1671563, at *8 (M.D. Pa. Mar. 31, 2020) ("We note that ICE has a plethora of means other
16 than physical detention at their disposal by which they may monitor civil detainees and ensure
17 that they are present at removal proceedings, including remote monitoring and routine check-
18 ins.") (quoting *Robenson J. v. Decker*, No. CV 20-5141 (KM), 2020 WL 2611544, at *7
19 (D.N.J. May 22, 2020)). Mr. Haron's continued confinement is therefore excessive and
20 unlawfully punitive.
21

22
23 100. The Court may consider and order any alternatives to incarceration to mitigate any
24 risks that it determines that Mr. Haron may pose, including any of the conditions that it
25 regularly applies when granting pretrial defendants bail.
26

27 101. The extraordinary success of ICE's Intensive Supervision Appearance Program
28 ("ISAP") further demonstrates that release on conditions can effectively mitigate any possible

1 risk. ISAP has received compliance rates close to perfect. *See Hernandez v. Sessions*, 872
2 F.3d 976, 991 (9th Cir. 2017) (ISAP “resulted in a 99% attendance rate at all EOIR hearings
3 and a 95% attendance rate at final hearings”). Alternatives to detention, moreover, are far less
4 costly for the government than continued incarceration. *See id.* at 996-97.
5

6 **3. Third, even assuming no alternatives to incarceration could mitigate any**
7 **risk Mr. Haron might pose, the duration of his detention has exceeded the**
8 **bounds of due process.**

9 102. Even if the Court finds that no alternatives to incarceration would mitigate any risk
10 that Mr. Haron poses, the duration of his detention has exceeded the bounds permitted by due
11 process. “At some point [civil] detention can become excessively prolonged, and therefore
12 punitive, resulting in a due process violation.” *Torres*, 995 F.3d at 709-10.
13

14 103. In the context of a criminal defendant’s pretrial detention, the Supreme Court upheld
15 a statute creating a categorical presumption of pretrial detention for people convicted of
16 certain crimes but made clear that otherwise permissible detention violated the Constitution
17 once it became prolonged. *Salerno*, 481 U.S. 739 (where the Court found that pretrial
18 detention of criminal defendants under the Bail Reform Act of 1984 did not violate the
19 substantive or procedural protections of the due process clause of the fifth amendment).
20 Applying *Salerno*, the Ninth Circuit recently held that twenty-one months of pre-trial
21 detention “is approaching the limits of what due process can tolerate” for a defendant awaiting
22 trial who had multiple prior convictions and a history of failing to appear in court. *Torres*,
23 995 F.3d at 709-10 (holding that “due process demands that the district court begin Torres’s
24 trial or reconsider bail subject to appropriate conditions very soon.”). Importantly, in *Torres*
25 and other post-*Salerno* jurisprudence, the petitioner had already undergone a hearing to
26
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1 determine whether “no bail conditions would reasonably assure [their] appearance at court
2 hearings and the safety of the community”—an inquiry that no adjudicator has yet undertaken
3 in Mr. Haron’s case. *See Torres*, 995 F.3d at 700 (referring to provisions of Bail Reform Act
4 at 18 U.S.C. § 3142(e)).

5
6 104. Multiple courts have held that far shorter periods of confinement than those presented
7 in Mr. Haron’s case violate the Constitution. *See, e.g., United States v. Theron*, 782 F.2d 1510,
8 1516-17 (10th Cir. 1986) (holding four months pretrial detention “too long” and ordering
9 release within 30 days if trial did not commence); *United States v. Gonzales Claudio*, 806
10 F.2d 334, 341 (2d Cir. 1986) (holding fourteen-month detention unconstitutional and
11 recognizing that “[d]etention that has lasted for fourteen months and, without speculation, is
12 scheduled to last considerably longer, points strongly to a denial of due process”); *United*
13 *States v. Zannino*, 798 F.2d 544, 548 (1st Cir. 1986) (denying release on unique facts of case
14 but “assum[ing] that in many, perhaps most, cases, sixteen months would be found to exceed
15 the due process limitations on the duration of pretrial confinement”); *United States v. Chen*,
16 820 F. Supp. 1205, 1210 (N.D. Cal. 1992) (one-year detention unconstitutional).

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19 105. Mr. Haron’s 19 months-and-counting of confinement, coupled with the fact that it
20 could potentially continue for many months while his immigration proceedings remain
21 pending, suggests that he is likely to approach the duration of civil confinement that three
22 Courts of Appeals, including the Ninth Circuit, recognize as the outer limits of confinement
23 that the Constitution could withstand, even when no conditions of release could accomplish
24 the government’s non-punitive objectives, which is not the case here. *See Torres*, 995 F.3d at
25 709-710 (21 months); *Gonzales Claudio*, 806 F.2d at 343 (14 months); *Zannino*, 798 F.2d at
26 548-549 (16 months).
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25 709-710 (21 months); *Gonzales Claudio*, 806 F.2d at 343 (14 months); *Zannino*, 798 F.2d at
26 548-549 (16 months).
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B. This Court has the authority to order Mr. Haron's release to remedy the substantive due process violation.

106. If the Court finds that Mr. Haron's continued detention is punitive and a substantive due process violation, the only proper remedy is immediate release. That remedy is well within the Court's habeas power as well as the Court's equitable powers to remedy a constitutional violation under § 1331.

107. The federal habeas statute directs district courts to "dispose of the matter as law and justice require." 28 U.S.C. § 2243; *see also Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) (explaining that habeas courts have long had "the largest power to control and direct the form of judgment to be entered") (quoting *In re Bonner*, 151 U. S. 242, 261 (1894)).

108. In immigration habeas cases, courts regularly order release upon determining that detention violates substantive due process. *See, e.g., Doe*, 732 F. Supp. 3d at 1090 (concluding that petitioner's continued detention without having been "afforded the procedural protections required...violates his rights under the Due Process Clause of the Fifth Amendment," and requiring the government to propose an injunction for petitioner's immediate release "under whatever conditions the government believes will help address its concerns regarding flight risk or danger to the community," including enrollment in one of ICE's extraordinarily successful GPS monitoring programs); *Lawson v. Gerlinski*, 332 F. Supp. 2d. 735, 744-46 (M.D. Pa. 2004) (concluding that petitioner's prolonged immigration detention violated substantive due process and ordering release); *see also Tuan Thai v. Ashcroft*, 366 F.3d 790, 792 (9th Cir. 2004) (affirming habeas grant requiring release pursuant to *Zadvydas*); *Ekeh v. Gonzales*, 197 F. App'x 637, 638 (9th Cir. 2006) (ordering release pursuant to *Zadvydas*).

1 109. Under such circumstances, district courts may impose conditions of release to manage
2 the governmental interests at stake. *See, e.g., Ortuño v. Jennings*, No. 20-cv-02064-MMC,
3 2020 WL1701724, at *5 (N.D. Cal. Apr. 8, 2020) (setting conditions of release); *Zepeda Rivas*
4 *v. Jennings*, No. 20-CV-02731-VC, 465 F. Supp. 3d 1028, 1036 (N.D. Cal. 2020) (citing
5 inherent habeas authority to release on bail); *id.*, Dkt. 543 (N.D. Cal. Aug. 13, 2020) (setting
6 multiple conditions of release); *id.*, Dkt. 471 (N.D. Cal. July 31, 2020) (conditioning release
7 on attendance at group sobriety meetings).

9 110. Likewise, the Ninth Circuit has held that district courts have the authority to grant
10 injunctive relief—including release—to remedy a constitutional violation. *See Roman*, 977
11 F.3d at 941-42. “Federal Courts possess whatever powers are necessary to remedy
12 constitutional violations because they are charged with protecting those rights.” *Stone v. City*
13 *& County of San Francisco*, 968 F.2d 850, 861 (9th Cir. 1992).

15 111. Whether it is under the habeas statute, or its broad powers to craft adequate equitable
16 relief, this Court has authority to order release and craft appropriate conditions as necessary.

18 112. Here, because Mr. Haron’s prolonged detention is excessive and unnecessary in
19 relation to any governmental interests, the Court must release him.

21 **C. Alternatively, Mr. Haron’s prolonged categorical detention without an**
22 **individualized determination violates procedural due process.**

23 113. Because Mr. Haron is subject to punitive civil incarceration in violation of substantive
24 due process, this Court does not need to reach the question of whether his detention also
25 violates procedural due process. However, should the Court reach this issue, this Court should
26 find that Mr. Haron’s prolonged detention violates procedural due process absent an
27 individualized inquiry into whether the government’s justification for his confinement
28

1 outweighs his “constitutionally protected interest in avoiding physical restraint.” *Zadvydas*,
2 533 U.S. at 690 (citations omitted).

3 114. Courts in the Ninth Circuit and beyond have taken different approaches to determining
4 whether prolonged detention violates procedural due process. However, “[n]early all district
5 courts that have considered the issue agree that prolonged mandatory detention pending
6 removal proceedings, without a bond hearing, will—at some point—violate the right to due
7 process.” *Zagal-Alcaraz v. ICE Field Off. Dir.*, No. 3:19-CV-01358-SB, 2020 WL 1855189
8 (D. Or. Apr. 13, 2020), adopting report and recommendation, *Zagal-Alcaraz v. ICE Field Off.*,
9 No. 3:19-CV-01358-SB, 2020 WL 1862254, *3 (D. Or. Mar. 25, 2020) (quoting *Banda v.*
10 *McAleenan*, 385 F. Supp. 3d 1099, 1116 (W.D. Wash. 2019)); *see also Yagao v. Figueroa*,
11 No. 17-cv-2224-AJB-MDD, 2019 WL 1429582, *2 (S.D. Cal. Mar. 29, 2019) (“[T]he Court
12 agrees with the many district courts finding that prolonged detention without a bond hearing
13 likely violates due process.”). At a minimum, once detention continues past one year, as it did
14 for Mr. Haron on August 11, 2025, “courts become extremely wary of permitting continued
15 custody absent a bond hearing.” *Yagao*, No. 17-cv-2224-AJB-MDD, 2019 WL 1429582 at *2
16 (internal citation omitted).

17 115. Many district courts in the Ninth Circuit apply the due process framework articulated
18 by the Supreme Court in *Mathews v. Eldridge* to determine whether ongoing detention under
19 8 U.S.C. § 1226(c) violates a petitioner’s due process rights. *Mathews v. Eldridge*, 424 U.S.
20 319 (1976); *See e.g. Mitka v. ICE Field Off. Dir.*, No. C19-193 MJP, 2019 WL 5892025, *2-
21 3 (W.D. Wash. Nov. 12, 2019). Because it is the most frequently used, Mr. Haron asserts that
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1 the *Mathews* test is the applicable test; however, under any of the possible tests, he is entitled
 2 to a bond hearing.¹⁵

3 1. The *Mathews v. Eldridge* balancing test

4 116. The *Mathews* test for procedural due process claims balances: (1) the private interest
 5 threatened by governmental action; (2) the risk of erroneous deprivation of such interest and
 6 the value of additional or substitute safeguards; and (3) the government interest. 424 U.S. at
 7 335. Here, each factor weighs in Mr. Haron's favor, requiring this Court to promptly order a
 8 hearing before a neutral adjudicator to evaluate whether the government can justify his
 9 ongoing detention.
 10

11
 12 117. First, Mr. Haron has a weighty interest in his own liberty, the core privacy interest at
 13 stake here. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment...lies at the heart of the
 14 liberty [the Due Process Clause] protects."). Mr. Haron, who is being held in "incarceration-
 15 like conditions," has an overwhelming interest here, regardless of the length of his
 16 immigration detention, because "any length of detention implicates the same" fundamental
 17 rights. *Jennings*, No. 2020 WL 7626414, at *6; *see also Martinez Leiva v. Becerra*, No. 23-
 18 CV-02027-CRB, 2023 WL 3688097, *7 (N.D. Cal. May 26, 2023) (The interest in 'freedom
 19 from prolonged detention' is 'unquestionably substantial.'") (quoting *Singh*, 638 F.3d at
 20 1208); *I.E.S. v. Becerra*, No. 23-CV-03783-BLF, 2023 WL 6317617, *8 (N.D. Cal. Sept. 27,
 21 2023) (same).
 22
 23
 24

25 ¹⁵ Alternative tests include the Third Circuit's test in *German Santos v. Warden Pike*
 26 *Correctional Facility*, 965 F.3d 203 (3d Cir. 2020), the Eastern District of California's test in
 27 *Lopez v. Garland*, 631 F. Supp. 3d 870 (E.D. Cal. 2022), the Western District of
 28 Washington's test in *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1118 (W.D. Wash. 2019),
 and the District of Colorado's test in *Singh v. Choate*, 2019 WL 3943960 (D. Colo. Aug. 21,
 2019).

1 118. Mr. Haron's private interest is particularly profound because he has been detained for
2 over 19 months without any review by a neutral arbiter, if the Executive Office for
3 Immigration Review is considered neutral. His total time in civil detention is now twelve
4 times the length of the "brief" detention contemplated by the Supreme Court in *Demore v.*
5 *Kim*, 538 U.S. 510, 530 (citing an average detention length of one and a half months for cases
6 that do not involve an appeal).

8 119. As Mr. Haron continues to mount a good-faith defense to deportation in his appellate
9 proceedings, neither his release nor his removal is remotely in sight. Exh. B. ¶¶ 14-16; *See*
10 *Zadvydas*, 533 U.S. at 690-91, 696 (strength of liberty interest increases as period of
11 confinement grows); *Diouf*, 634 F.3d at 1091-92 ("When detention crosses the six-month
12 threshold and release or removal is not imminent, the private interests at stake are profound.")
13 *abrogated on other grounds as recognized in Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th
14 Cir. 2022). He is facing the prospect of several additional months, possibly years, of
15 unreviewed detention. *See* Exh. B at ¶¶ 5-9 (explaining that Mr. Haron's Ninth Circuit may
16 take many months if not longer).

19 120. Second, the risk of erroneous deprivation of Mr. Haron's liberty is high, as he has been
20 detained since August 2024 without any evaluation of whether the government can justify
21 detention under his individualized circumstances. "[T]he risk of an erroneous deprivation of
22 liberty in the absence of a hearing before a neutral decisionmaker is substantial." *Diouf*, 634
23 F.3d at 1092. Similarly, "the probable value of additional procedural safeguards—an
24 individualized evaluation of the justification for [her] detention—is high, because
25 Respondents have provided virtually no procedural safeguards at all." *Jimenez*, 2020 WL
26 510347 at *3 (granting habeas petition for an individual who had been detained for one year
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1 without a bond hearing). As articulated *supra*, Mr. Haron is an excellent candidate for bond
2 because he is neither a flight risk nor a danger to the community; therefore, there is significant
3 value in granting him additional safeguards in the form of a bond hearing.

4 121. Mr. Haron has not received an individualized evidentiary hearing before a neutral
5 decision maker in the nineteen months that he has been detained. An evidentiary hearing is a
6 valuable procedural safeguard because the government has not proven to a neutral
7 decisionmaker that Mr. Haron's detention is warranted or that his ongoing detention is
8 necessary. To the contrary, Mr. Haron neither poses a danger nor a flight risk. *See supra*. (Mr.
9 Haron does not pose a flight risk because if released, he will be bonded by and under the
10 supervision of Casa Marianella; he fears for his life in Sudan and is fighting for his ability to
11 lawfully remain in the United States; and, he has concrete plans to build a life in the United
12 States).

13 122. Third, the government's interest in continuing to detain Mr. Haron without providing
14 any neutral review is very low. *See Mathews*, 424 U.S. at 335. The specific interest at stake
15 here is neither the government's interest in enforcing this country's immigration laws nor is
16 it the government's ability to continue to detain Mr. Haron, it is solely the government's
17 ability to continue detaining Mr. Haron for months, and possibly years, *without any*
18 *individualized review*. *See Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953 (N.D. Cal. 2019).
19 "[T]he government has no legitimate interest in detaining individuals who have been
20 determined not to be a danger to the community and whose appearance at future immigration
21 proceedings can be reasonably ensured by a lesser bond or alternative conditions."
22 *Hernandez*, 872 F.3d at 994.

1 123. Moreover, the bond hearing Mr. Haron seeks is a routine process that the government
 2 provides on a daily basis and would impose only a de minimis burden on the government.
 3 The government has conceded as much in similar cases. *See id.*; *De Paz Sales v. Barr*, No.
 4 19-cv- 04148-KAW, 2019 WL 4751894, at *7 (N.D. Cal. Sept. 30, 2019) (“[T]he Government
 5 does not argue there are any costs to providing a bond hearing.”). Even assuming there are
 6 some fractional costs borne by the government, they are “easily outweighed by the reduction
 7 in the risk of erroneous deprivation of liberty that would result from the additional safeguard”
 8 of a bond hearing. *Hernandez*, 872 F.3d at 994.

11 **D. At any hearing, the government must justify Mr. Haron’s detention by clear and**
 12 **convincing evidence.**

13 124. Where a custody hearing is warranted as a procedural safeguard against unreasonably
 14 prolonged detention, the government bears the burden of justifying continued confinement
 15 by clear and convincing evidence. *Singh*, 638 F.3d at 1205; *Decker*, 103 F.4th at 157-58
 16 (observing that where “an individual’s liberty is at stake, the Supreme Court has consistently
 17 used [clear and convincing] evidentiary standard for continued detention”) (internal citations
 18 omitted); and at 159 (reiterating that the government bears the burden of meeting this
 19 standard even where an individual is detained under §1226(c)); *see also I.E.S.*, 2023 WL
 20 6317617 at *10 (finding that the Ninth Circuit’s reasoning in *Singh* applies equally to cases
 21 arising under § 1226(c) because “it would be improper to ask [petitioner] to ‘share equally
 22 with society the risk of error when the possible injury to the individual’—deprivation of
 23 liberty—is so significant.”) (internal citation omitted); *Martinez Leiva v. Becerra*, No. 23-
 24 CV-02027-CRB, 2023 WL 3688097, 9 (N.D. Cal. May 26, 2023) (finding the same); *Gomez-*
 25 *Ochoa v. Lynch*, No. CV1601646PHXJJTBSB, 2017 WL 913597, *6 (D. Ariz. Feb. 8, 2017)

(requiring government to show by clear and convincing evidence that individual was a flight risk or danger to the community during custody redetermination hearing), report and recommendation adopted, *Gomez-Ochoa v. Lynch*, No. CV1601646PHXJJTBSB, 2017 WL 897777 (D. Ariz. Mar. 7, 2017).

125. Moreover, at the evidentiary hearing, the adjudicator should consider alternatives to detention and Mr. Haron's financial circumstances in determining whether further detention is warranted and the conditions of his release. *See, e.g., Hernandez*, 872 F.3d at 994 ("If the government is setting monetary bonds to ensure appearance at future proceedings, there is no legitimate reason for it not to consider the individual's financial circumstances and alternative conditions of release."); *Decker*, 103 F.4th at 157-58 (finding the district court properly directed the Immigration Judge conducting petitioner's bond hearing to consider petitioner's ability to pay and alternative means of assuring his appearance).

CLAIMS FOR RELIEF

CLAIM I

Violation of the Fifth Amendment Due Process Clause – As Applied Challenge to Mandatory Detention / Challenge to Detention Authority

126. Mr. Haron re-alleges and incorporates by reference the paragraphs above.

127. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

128. The government has two legitimate interests that may be served by civil immigration detention: preventing flight from removal proceedings and protecting the community.

129. Prolonged civil immigration detention is punitive in violation of substantive due process when (1) a person subjected to prolonged civil immigration detention poses no risk

1 of flight or danger to the community; or (2) restrictions short of physical custody are
2 sufficient to mitigate any risk a detained person poses.

3 130. Mr. Haron does not pose a danger nor a flight risk; and his ongoing detention is
4 excessive in relation to any legitimate government interest, which would be amply satisfied
5 by his release on appropriate conditions.
6

7 131. For each of these reasons, Mr. Haron's ongoing prolonged detention violates
8 substantive due process.
9

10 CLAIM 2

11 Violation of the Fifth Amendment Due Process Clause – As Applied Challenge to 12 Mandatory Detention / Entitlement to a Bond Hearing

13 132. Mr. Haron re-alleges and incorporates by reference the paragraphs above.

14 133. The Due Process Clause of the Fifth Amendment forbids the government from
15 depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.
16

17 134. Mr. Haron's detention has become prolonged as he has been detained for 18 months
18 and faces months, possibly months or years, of continued detention while his Petition for
19 Review is decided.
20

21 135. The Due Process Clause requires additional safeguards in the form of an evidentiary
22 hearing assessing the propriety of Mr. Haron's continued detention. According to the
23 procedural due process tests applied by courts across the country, including in this district,
24 his unreviewed confinement has become unreasonably prolonged.
25

26 136. The Due Process Clause requires the government to establish, at an individualized
27 hearing before a neutral decisionmaker, that Mr. Haron's prolonged detention is justified by
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1 clear and convincing evidence of flight risk or danger, even after consideration of whether
2 alternatives to detention could sufficiently mitigate that risk.

3 137. Mr. Haron's ongoing and prolonged detention without an individualized evidentiary
4 hearing violates procedural due process.

5
6 **PRAYER FOR RELIEF**

7 WHEREFORE, Mr. Haron respectfully requests that this Court:

- 8 1) Assume jurisdiction over this matter;
- 9 2) Declare that Mr. Haron's ongoing prolonged detention violates his right to
10 Substantive Due Process under the Fifth Amendment; or, in the alternative, that it
11 violates his right to Procedural Due Process under the Fifth Amendment;
- 12 3) Issue a Writ of Habeas Corpus and order Respondents to immediately release Mr.
13 Haron from DHS's physical custody, or enjoin Respondents from continuing to
14 detain Mr. Haron.
- 15 4) In the alternative, Issue a Writ of Habeas Corpus and, promptly thereafter, hold
16 such a hearing or order such a hearing held before an Immigration Judge within
17 14 days, where Respondents must establish the necessity of further detention by
18 clear and convincing evidence, and where the adjudicator evaluates Mr. Haron's
19 ability to pay in setting bond, and considers alternative conditions of release that
20 reasonably assure the safety of the community and Mr. Haron's future
21 appearances; or enjoin the government from continuing to detain Mr. Haron absent
22 a hearing before this Court or an Immigration Judge within 14 days where the
23 government must establish the necessity of further detention by clear and
24 convincing evidence, and where the adjudicator evaluates Mr. Haron's ability to
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1 pay in setting bond, and considers alternative conditions of release that reasonably
2 assure the safety of the community and Mr. Haron's future appearances;

3 5) Award Mr. Haron reasonable attorneys' fees, costs, and other disbursements in
4 this action permitted under the Equal Access to Justice Act ("EAJA"), as amended,
5 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law;
6 and,
7

8 6) Grant any other relief that the Court deems just and proper.
9

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11 Dated: April 5, 2026

Respectfully submitted,

12
13 s/ Ami E. Hutchinson
14 Ami E. Hutchinson, Esq.
Jesse Evans-Schroeder

15 *Pro Bono Attorneys for Petitioner*
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Abaker Haron, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 5th day of April, 2026.

s/ Ami E. Hutchinson

Signature