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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Yakup Kilic
Petitioner,

v.

Markwayne MULLIN, in his official capacity, Secretary, U.S. Department of Homeland Security;

Todd LYONS, in his official capacity as Acting Director of Immigration and Custom Enforcement;

Warden of the Otay Mesa Detention Facility,
Respondents.

Case No.: '26CV2182 TWR SBC

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

[Expedite Handling Requested]

I. INTRODUCTION

1. Petitioner, a native and citizen of Turkey, has been held in the continuous physical custody of U.S. Immigration and Customs Enforcement ("ICE") for over ten months without an individualized bond hearing.

2. Petitioner's prolonged detention without a bond hearing violates the Due Process Clause of the Fifth Amendment. While the government may detain noncitizens during removal proceedings, such detention must be "brief." Petitioner's detention has exceeded the six-month threshold established by the Supreme Court and the Ninth Circuit as the point at which detention becomes presumptively unreasonable. *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011).

3. On September 2, 2025, Petitioner conceded the charges on the NTA. On September 6, 2025, Petitioner diligently filed an I-589 Application for Asylum, which remains pending. *See* Ex A, DHS Motion to Pretermit.

4. To remedy this unlawful detention, Petitioner seeks declaratory and injunctive relief in the form of immediate release or in the alternative to order to hold a bond hearing and shifting the burden of proof on the Respondents.

5. Petitioner respectfully requests that this Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C.

6. Pending the adjudication of his petition, Petitioner seeks an order restraining the Respondents from transferring him to outside of this Court's jurisdiction.

7. Pending the adjudication of this Petition, Petitioner also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Petitioner.

II. PARTIES

8. Petitioner is a Turkish national who is seeking asylum in the United States.

9. Petitioner is currently in Immigration and Customs Enforcement ("ICE") custody at the Otay Mesa Detention Facility.

10. Respondent Markwayne Mullin is the Secretary of Homeland Security. He is sued in his official capacity. In that capacity, Defendant Mullin is responsible for overseeing the enforcement of federal immigration policies, including those that resulted in the detention of Petitioner.

11. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). He is sued in his official capacity. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also the legal custodian of Petitioner.

12. Respondent, Warden of the Otay Mesa Detention Facility. He/she is sued in his official capacity. In that capacity, he/she is the custodian of detained non-citizens, including Petitioner, housed at the Otay Mesa Detention Facility.

III. JURISDICTION AND VENUE

13. This court has subject-matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Federal questions in this case arise under the Immigration and Naturalization Act, 8 U.S.C. § 1101-1524, and the United States Constitution.

14. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

15. Under 28 U.S.C. § 2241 and § 1391(b), (e), venue is proper in this district. Venue is proper because Petitioner is in Respondents' custody in the District of California. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this district, where Petitioner is now in Respondent's custody. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States

IV. EXHAUSTION OF REMEDIES

16. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of her detention. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

17. DHS has taken the position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225. Further, in a published decision, the Board of Immigration Appeals recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Under the BIA's interpretation, regardless of his prior release and placement in standard removal proceedings, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Accordingly, there are no administrative remedies that Petitioner could exhaust before seeking habeas relief.

18. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); *see also Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that "the BIA has no jurisdiction to adjudicate constitutional issues").

V. FACTUAL BACKGROUND

19. Petitioner entered into the United States on or about May 25, 2025. *See* Ex. A, DHS Motion to Pretermit.

20. On September 2, 2025, Petitioner filed an I-589 Application for Asylum and Withholding of Removal, which remains pending.

21. As of the date of this filing, Petitioner has been detained for over 10 months. He has never been provided a bond hearing to determine if he is a flight risk or a danger to the community.

22. Petitioner is currently detained at the Otay Mesa Detention Facility.

VI. LEGAL BACKGROUND

A. Custody Determination Under INA

23. As relevant here, the Immigration and Naturalization Act, 8 U.S.C. §1101-1524, describes two means of handling the custody and potential removal of noncitizens.

24. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard removal proceedings. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the Rodriguez Vazquez court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. Apr. 24, 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

25. In addition, while on release, the noncitizen may apply for asylum or other relief in the United States. 8 U.S.C. § 1158. While a grant of asylum is

discretionary, the right to apply for asylum is not. The Refugee Act, codified in various sections of the INA, broadly affords a right to apply for asylum to any noncitizen, like Petitioner, "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1); Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

26. The INA guarantees to noncitizens in standard removal proceedings who apply for asylum and other relief valuable procedural rights that reduce the risk of an erroneous decision. These include the rights to legal counsel, 8 U.S.C. § 1229a(b)(4)(A) and § 1362; to present supporting evidence (both documentary and through lay and expert witness testimony) and to challenge through cross-examination adverse evidence during a full adversarial hearing before an immigration judge (IJ), 8 U.S.C. § 1148(b)(1)(B); to seek reconsideration or reopening of an adverse decision, 8 U.S.C. § 1229a(c)(6)-(7), to appeal an adverse decision of an IJ to the Board of Immigration Appeals based on the full evidentiary record, 8 U.S.C. § 1229a(c)(5), and to appeal an adverse decision of the Board to a federal circuit court of appeals, 8 U.S.C. § 1252(b).

27. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the *U.S. Constitution. Reno v. Flores*, 507 U.S. 292, 306 (1993).

28. The second relevant means of detention is governed by 8 U.S.C. § 1225, which provides for mandatory detention of noncitizens subject to expedited

removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission under 8 U.S.C. § 1225(b)(2). Respondents treat noncitizens subject to mandatory detention under § 1225 as ineligible for bond.

29. The mandatory detention scheme under 8 U.S.C. § 1225(b)(2) applies only to noncitizens arriving at U.S. ports of entry who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (emphasis added).

30. As to 8 U.S.C. § 1225(b)(1), this subsection provides for mandatory detention of noncitizens subject to expedited removal. Because expedited removal provides very few procedural protections, it applies narrowly to only those noncitizens who are inadmissible to the United States because they engaged in fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or who are applicants for admission without required documentation, 8 U.S.C. § 1182(a)(7). As relevant here, the government

may not subject any other person to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3).

31. For noncitizens in expedited removal, the INA does not grant them the rights enshrined in standard removal proceedings. To begin, an immigration officer may order them removed "without further hearing or review," 8 U.S.C. § 1225(b)(1)(A)(i), unless the noncitizen has expressed an intent to apply for asylum or a fear of persecution. But even then, the noncitizens' rights are truncated. Although the immigration officer "shall refer the [noncitizen] for an interview by an asylum officer," 8 U.S.C § 1225(b)(1)(A)(i)-(ii), a "credible fear" interview differs from an asylum application. First, the INA does not, as it does during standard removal proceedings, guarantee the noncitizen with the rights to counsel, to present documents or witness testimony, or to cross-examine adverse evidence. See id. § 1225(b)(1)(B)(iv). Second if the asylum officer decides that the noncitizen does not have a credible fear of persecution, the noncitizen may seek review before an IJ, but review is limited to the record of the interview. 8 U.S.C. § 1225(b)(1)(B)(iii)(III). Finally, if the IJ concurs with the asylum officer, the noncitizen is removed without any further review by the Board of Immigration Appeals or a federal court. Only if a noncitizen passes a credible fear interview may they apply for asylum and related relief in full removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(B); 8 C.F.R. § 208.30(f).

32. An expedited removal order comes with significant consequences beyond removal itself. Noncitizens who are issued expedited removal orders are subject to a five-year bar on admission to the United States unless they qualify for a discretionary waiver. 8 U.S.C.§ 1182(a)(9)(A)(i); 8 C.F.R. § 212.2. Similarly, noncitizens issued expedited removal orders after having been found inadmissible based on misrepresentation are subject to a lifetime bar on admission to the United States unless they are granted a discretionary exception or waiver. 8 U.S.C. § 1182(a)(6)(C).

33. These two processes have governed removal proceedings for nearly three decades. The release provisions for noncitizens placed in standard removal proceedings under § 1226 and the mandatory detention provisions for noncitizens recently arriving in the United States under § 1225(b)(1) and (b)(2) were enacted in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.

34. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or

other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)); *Martinez v. Hyde*, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) ("The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system ") (citing *Jennings v. Rodriguez*, 583 U.S. at 289) (cleaned up))

35. 8 U.S.C. 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

36. 8 U.S.C. 1226(a) applies not just to persons who are deportable, but also to noncitizens who are inadmissible. Specifically, while § 1226(a) provides the general right to seek release, § 1226(c) carves out discrete categories of noncitizens from being released—including certain categories of inadmissible noncitizens—and subjects those limited classes of inadmissible aliens instead to mandatory detention. *See*, e.g., 8 U.S.C. § 1226(c)(1)(A), (C).

37. The Laken Riley Act (LRA) added language to § 1226 that directly references people who have entered without inspection or who are present without authorization. *See* LRA, PL 119-1, January 29, 2025, 139 Stat 3.

Pursuant to these amendments, people charged as inadmissible under § 1182(a)(6)(A) (the inadmissibility ground for entry without inspection) or (a)(7)(A) (the inadmissibility ground for lacking valid documentation to enter the United States) and who have been arrested, charged with, or convicted of certain crimes are subject to § 1226(c)'s mandatory detention provisions. *See* 8 U.S.C. § 1226(c)(1)(E).

38. This legislative amendment would be entirely unnecessary if all entrants without inspection were already subject to mandatory detention under Section 1225. *See Jimenez v. FCI Berlin, Warden*, 799 F. Supp. 3d 59, 71 (D.N.H. 2025). Because Petitioner has no criminal history, the LRA does not apply, and he remains under the default discretionary authority of Section 1226(a).

39. By including such individuals under § 1226(c), Congress reaffirmed that § 1226 covers persons charged under § 1182(a)(6)(A) or (a)(7). Generally speaking, grounds of deportability (found in 8 U.S.C. § 1227) apply to people like lawful permanents residents, who have been lawfully admitted and continue to have lawful status, while grounds of inadmissibility (found in § 1182) apply to those who have not yet been admitted to the United States. *See*, e.g., *Barton v. Barr*, 590 U.S. 222, 234 (2020) ("specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies.") (quoting

Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400 (2010)).

40. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) to prioritize civil immigration enforcement procedures including through the use of mass detention.

41. On January 21, 2025, Acting Deputy Secretary of DHS Benjamin Huffman issued for public inspection and effective immediately a designation expanding the scope of expedited removal to apply nationwide and to certain noncitizens who are unable to prove they have been in the country continuously for two years. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep't of Homeland Security, Designating Aliens for Expedited Removal, 15 Fed. Reg. 8139

("January 2025 Designation"). The designation was "effective on" January 21, 2025.

42. The January 2025 Designation expands the pool of noncitizens who can be subjected to the summary removal process substantially to include noncitizens who are apprehended anywhere in the United States and who have not been in the United States continuously for more than two years. *Id.* at 8140.

43. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

44. On July 8, 2025, without congressional authorization, the Executive Branch announced a new policy entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission." The policy asserts that all undocumented noncitizens deemed "applicants for admission" are subject to mandatory detention under § 1225(b)(2)(A). The policy purports to apply even to those, like Petitioner, whom at the time of the policy shift, the government had already placed in standard removal proceedings, released from custody, and allowed to apply for asylum. The policy shift also violates the government's own regulations. These regulations limit the government from seeking dismissal of full removal proceedings unless it can show that the "[c]ircumstances of the case have changed". See 8 C.F.R. § 239.2(a)(7) (emphasis added). But the

government's new policy purports to allow it to seek dismissal based on changed circumstances independent of the noncitizen's case.

45. Adopting this same position, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a published decision holding that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bonds. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

46. In recent months federal district courts have overwhelmingly rejected Respondents' new interpretation of the INA's detention authorities.[1]

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[1] See, e.g., *Quituizaca v. Bondi*, No. 6:25-CV-6527-EAW, 2025 WL 3264440 (W.D.N.Y. Nov. 24, 2025); *Alvarez Ortiz v. Freden*, No. 25-CV-960-LJV, 2025 WL 3085032, at *10 (W.D.N.Y. Nov. 4, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025). *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025

47. Under 8 U.S.C. § 1226(a), the Attorney General is authorized, pending a removal decision, to either "detain" or "release" a noncitizen on "bond" or "conditional parole." While this provision grants the Government broad authority, "due process must account for the wide discretion that Section 1226(a) vests in the Government to arrest any person in the United States suspected of being removable." *Reyes v. King*, No. 19 Civ. 8674, 2021 WL 3727614, at *6 (S.D.N.Y. Aug. 20, 2021) (emphasis in original).

48. Before this discretion is exercised to deprive an individual of their liberty, "§ 1226(a) and its implementing regulations require ICE officials to make an

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

individualized custody determination." *Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020). This requirement is rooted in the statutory text itself; because the Attorney General "may continue to detain" an arrested noncitizen, the Supreme Court has made clear that such permissive language requires "some level of individualized determination." *Id.* at 235 (quoting *I.N.S. v. Nat'l Ctr. for Immigrants' Rts., Inc.*, 502 U.S. 183, 194 (1991))

B. The 5th Amendment Requires a Bond Hearing for Detention Exceeding Six Months.

49. The Due Process Clause of the Fifth Amendment to the U.S. Constitution applies to all persons within the United States. Once a noncitizen enters this country, whether the presence is "lawful, unlawful, temporary, or permanent," the Due Process Clause applies to the noncitizen. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)

50. The Ninth Circuit has long held that "prolonged detention" (exceeding six months) requires an individualized bond hearing to satisfy Due Process. *Aleman Gonzalez v. Barr*, 955 F.3d 762 (9th Cir. 2020).

51. Because the detention is prolonged, the Government must bear the burden of proof by "clear and convincing evidence" to justify continued incarceration. *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

CAUSE OF ACTION

COUNT ONE: VIOLATION OF THE IMMIGRATION & NATIONALITY ACT – 8 U.S.C. § 1226(a)

52. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

53. Section 1226 of Title 8 of the U.S. Code governs the detention of aliens pending a determination of removal from the United States.

54. Such an alien "may [be] release[d] … on bond of at least $1,500." 8 U.S.C. § 1226(a)(2)(A).

55. The denial of Petitioner's bond eligibility is in violation of 8 U.S.C. § 1226(a)(2)(A), which specifically makes him eligible for bond.

COUNT TWO: VIOLATION OF THE FIFTH AMENDMENT

56. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

57. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.

58. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. Freedom from

arbitrary imprisonment is the "norm," and detention is a "carefully limited exception." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)

59. The government's detention of Petitioner is unjustified under 8 U.S.C. § 1225. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community).

60. The Ninth Circuit has held that once immigration detention becomes "prolonged"—generally defined as exceeding six months—due process requires an individualized bond hearing. *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011).

61. Petitioner has been detained for over ten (10) months. This duration far exceeds the "presumptively reasonable" six-month period of detention established in *Zadvydas*, 533 U.S. 678 (2001).

62. By continuing to detain Petitioner without an individualized hearing where the Government bears the burden of proof, Respondents have violated Petitioner's right to Procedural Due Process under the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;

2. Issue an order restraining Respondents from attempting to move Petitioner from the District of Southern California during the pendency of this Petition;

3. Ordered that Respondents shall file a Respond to the Order to Show Cause why the Writ of Habeas Corpus should not be granted within three (3) days.

4. Order Petitioner's immediate release;

5. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within five (5) days, at which the Government bears the burden of proving by clear and convincing evidence that Petitioner is a flight risk or a danger to the community.;

6. Order Respondents to immediately return all of Petitioner's seized personal property, including but not limited to any government-issued identification to the extent such items were seized and remain in Respondents' possession;

7. Grant such other and further relief as the Court may deem just and proper.

8. Retain jurisdiction over this matter to ensure compliance with the Court's orders and to allow Petitioner to move to reopen proceedings should Respondents seek to re-detain him;

9. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).

10. Grant any further relief this court deems just and proper.

Dated: April 7, 2026

/s/ Sarah L. Vuong
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Verification by Petitioner's Legal Counsel
Pursuant to 28 U.S.C. § 2242

I am submitting this verification because I am the Attorney for the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status are true and correct to the best of my knowledge.

/s/ Mehmet Y. Turkoglu Date: April 7, 2026
Mehmet Y. Turkoglu, Esq