

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

COMES NOW DOGUKAN SAHIN, as the Petitioner in this present matter, appearing *Pro Se*, and hereby respectfully petitions this Honorable Southern District Court of California for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

The Petition of DOGUKAN SAHIN respectfully shows:

INTRODUCTION

1. Petitioner, Dogukan Sahin, a male who is from Turkiye currently being physically detained under the custody of the Respondents, including the Department (“DHS/ICE”) at Otay Mesa Detention Center (“OMDC”) in San Diego, California.
2. Upon information and belief, Petitioner entered the United States (“US”) on July 16, 2023 and turned himself over to immigration authorities, was taken into custody for processing and was ultimately released from immigration custody shortly after.
3. After his release, Petitioner submitted an affirmative asylum application with USCIS.
4. Petitioner, also referred to as Mr. Sahin, seeks protection relief from removal in the form of Asylum, Withholding of Removal, and Convention Against Torture. Thus, Petitioner submitted an affirmative asylum claim.
5. On January 19, 2026, Petitioner was pulled over by the police where the officers contacted ICE. Subsequently, ICE agents arrived at the scene and for some capricious reason arrested and re-detained Petitioner.
6. Essentially, ICE agents re-detained Petitioner without a pre-deprivation hearing and without a “notice of revocation”.
7. Petitioner was arrested for allegations of domestic violence, but interestingly, he was released three-days later. Yet, even with this charge, ICE agents failed to produce a “notice of revocation” and have not identified any material changed circumstances.

1 8. Petitioner did not violate ICE' terms of his supervision nor did he violate DHS' terms
2 and conditions of release. Petitioner was not afforded a pre-deprivation hearing and
3 ICE agents failed to produce a "notice of revocation".

4 9. As such, Petitioner has not been afforded a fair bond hearing wherein the government
5 must establish by a constitutional, due process, standard of *clear and convincing*
6 evidence that Petitioner presents a risk of flight or danger to the community.

7 10. Petitioner therefore respectfully requests that this Court issue a Writ of Habeas Corpus,
8 and determine that Petitioner's re-detention is not justified because the government has
9 not established by *clear and convincing* evidence that Petitioner presents a risk of flight
10 or danger in light of reasonable available alternatives to detention, and order
11 Petitioner's release, with appropriate conditions of supervision if necessary.

12 11. Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus and order
13 Petitioner's release within twenty ("20") days unless Respondents schedule a hearing
14 before immigration judge where it holds proper jurisdiction, comports with due process
15 of law and where: (1) to continue detention, the government must establish by *clear*
16 *and convincing* evidence that Petitioner present a risk of flight or current public danger,
17 even after consideration of alternatives to detention that could mitigate any risk that
18 Petitioner's release would present; and (2) if the government cannot meet its heavy
19 burden, the immigration judge orders Petitioner's release on appropriate conditions of
20 supervision and, should bond be considered, Petitioner respectfully asks to take into
21 account his ability to pay a reasonable bond.

22 12. Petitioner respectfully requests that the Court use its authority under 28 U.S.C. § 2243
23 to order the Respondents to file a return within three days, unless they can show good
24 cause for additional time. *See* 28 U.S.C. § 2243 (stating that an order to show cause

1 why a petition for a writ of habeas corpus should be denied is returnable "within three
2 days unless for good cause additional time, not exceeding twenty days, is allowed").

3 13. In order to permit full judicial review of the claims herein and requested relief,
4 Petitioner respectfully requests that the Court order Respondents not to transfer
5 Petitioner outside the jurisdiction of this Court pending consideration of this Petition.

6 **PARTIES**

7 14. Petitioner, Dogukan Sahin is a native of Turkiye, and is identified as a national of
8 Turkey, who is detained at Otay Mesa Detention Center without due process.

9 15. Respondent, Kristi NOEM is sued in her official capacity as the Secretary of the
10 Department of Homeland Security (herein after referred to as "DHS"). In her capacity
11 he has the responsibility for administration and enforcement of the immigration laws
12 pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. 296, 116
13 Stat. 2135 (Nov. 25, 2002). *See Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003).

14 16. Respondent Pamela J. BONDI is sued in her official capacity as the Attorney General
15 of the United States. She has responsibility for the administration and enforcement of
16 the immigration laws pursuant to 8 U.S.C. § 1103, and Immigration and Nationality
17 Act § 103. As the "INA" has not been amended to reflect the designation of the
18 Secretary of the DHS as the administrator and enforcer of the immigration laws. In this
19 case, Respondent Pamela J. BONDI is sued in her official capacity to the extent that 8
20 U.S.C. § 1102 gives her the authority to detain Petitioner. *See Armentero v. INS, supra*.
21 Thus, Pamela J. BONDI is considered a legal custodian of Dogukan Sahin.

22 17. Respondent, Partrick DIVVER, is the Field Office Director responsible for the San
23 Diego Field Office of ICE Enforcement and Removal Operations, which has
24 administrative jurisdiction over Petitioner's case. He is a legal custodian of Mr. Sahin

1 and is named in his official capacity.

2 18. Respondent, Todd LYONS is Acting Director of ICE. As the head of ICE, an agency
3 within the U.S. Department of Homeland Security that detains and removes certain
4 noncitizens, Respondent Todd LYONS is a legal custodian of Mr. Dogukan Sahin and
5 he is named in his official capacity.

6 19. Respondent, Christopher J. LAROSE, Warden of Otay Mesa Detention Center, where
7 Petitioner is currently detained under the authority of ICE, alternatively may be
8 considered to be Petitioner's immediate custodian.

9 20. The Respondents in this action are the legal custodian of Petitioner and are named in
10 their official capacity

11 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12 21. Because Petitioner is considered as an arriving alien, as defined in 8 C.F.R. § 1001.1(g),
13 in removal proceedings, the immigration court does not have jurisdiction. *See*
14 Immigration Court Practice Manual ("ICPM") Section 9.3(b)(1). For this very reason,
15 the Immigration Judge will deny bond for lack of jurisdiction. *See* ICPM § 9.3(b)(1).

16 22. Even if Petitioner moves for an appeal before the Board of Immigration Appeals
17 ("BIA/Board") it will most likely adopt the IJ's decision and affirm the denial of bond
18 based on lack of jurisdiction. Even more, Respondents may argue that Petitioner is
19 under mandatory detention under section 1225 of the Immigration and Nationality Act
20 ("Act"). Consequently, Petitioner need not exhaust his administrative remedies.

21 23. Exhaustion is required only when Congress specifically mandates it. *McCarthy v.*
22 *Madigan*, 503 U.S. 140, 144 (1992). In all other instances, "sound judicial discretion
23 governs." *Id.* This Court should not require Petitioner to exhaust his administrative
24 remedies.

1 24. Petitioner is being held under mandatory detention without a pre-deprivation hearing
2 and without a “notice of revocation”. Even if Petitioner would move for such a bond
3 hearing, it would be futile as the Immigration Court does not hold proper jurisdiction.

4 25. As such, Petitioner is challenging the constitutionality of the procedures by which ICE
5 reviews the custody status of aliens who cannot be removed within six months, and
6 whose removal is not significantly likely to occur in the reasonably foreseeable future
7 and where the Immigration Court lacks jurisdiction.

8 26. Petitioner is also challenging the constitutionality of his re-detention where there are
9 no violations of the terms and condition of release, no pre-deprivation hearing, no
10 “notice of revocation”, and no justification for his re-detention. As a result, the
11 administrative remedy is inadequate to address these constitutional grounds for
12 recovery.

13 JURISDICTION

14 27. This action arises under the United States Constitution, the Immigration & Nationality
15 Act of 1952, as amended (herein after referred to as “INA”) 8 U.S.C. § 1101 et. seq.,
16 and the Administrative Procedures Act (herein after referred to as “APA”), 5 U.S.C. §§
17 701 et. seq. This Court has Habeas Corpus jurisdiction pursuant to 28 U.S.C. §§ 2241
18 et. seq.; Article 1, Clause 2 of the United States Constitution (hereinafter referred to as
19 “Suspension Clause”); and the Common Law. As Petitioner is presently in custody
20 under color of the authority of the United States, and such custody is in violation of the
21 Constitution, laws, and/or treaties of the United States. This Court may also exercise
22 jurisdiction pursuant to 28 U.S.C. § 1331 and may grant relief pursuant to the
23 Declaratory Judgement Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C.
24 § 1651.

VENUE

28. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(c) because the Respondents are employees or officers of the United States, acting in their official capacity, and an agency of the United States.

29. Venue is additionally proper in this Court because the Petitioner is detained in this District, and pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500(1973).

30. Venue is proper in this District because this is the district in which Petitioner is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024).

STATEMENT OF THE FACTS

31. Petitioner's full name is Dogukan Julio Sahin. He is a citizen of Turkiye with a pending asylum claim. Yet, Respondents have failed to identified any change in circumstances and have failed to provide a pre-deprivation hearing prior to his detention. Even more, Petitioner has not been afforded due process.

32. Petitioner entered the United States, turned himself in to immigration authorities and was granted release from custody. Respondents have failed to identify any violation of his terms and conditions of release from immigration authorities.

33. Petitioner was arrested and re-detained by ICE agents during a traffic stop. Yet, Respondents have not presented any change of circumstances, have failed to conduct a pre-deprivation hearing prior to his detention, and have not produced a "notice of revocation". Thus, ICE re-detained him without a warrant or due process of law.

34. Petitioner has a pending asylum claim with USCIS and is seeking political asylum and CAT protection due to the worsening country and worsening political conditions in Venezuela. Petitioner seeks to remain in the United States in a lawful manner.

1 35. Yet, for some capricious reason, ICE arrested Petitioner without following its own
2 regulations or the law, which puts into question the fundamental fairness

3 36. Petitioner pursues political asylum and CAT protection due to the worsening country
4 and the worsening political conditions in Turkiye. Petitioner seeks to remain in the
5 United States in a lawful manner.

6 **CRIMINAL HISTORY**

7 1. In this case, Petitioner does have criminal arrests, he was arrested for domestic violence
8 where, even with those allegations, he was granted released from the State's custody
9 by a District Judge three-days later.

10 2. Petitioner fully complied with the District Court's orders and has complied with all
11 court orders imposed on him.

12 3. Here, Petitioner has not been arrested for drugs or anything close to relevant here in the
13 United States and has taken steps to live a law-abiding lifestyle.

14 4. Even so, Petitioner has shown remorse and takes full responsibility for his actions and
15 bad decision. Petitioner is prepared to comply with any court orders imposed on him.

16 5. Further, Petitioner does not exhibit any history of violent behavior or violent criminal
17 history. Conversely, he has demonstrated excellent behavior while detained and in the
18 last few months and has no disciplinary actions against him while detained.

19 6. Petitioner has shown commendable willingness to reintegrate to day-to-day society
20 once released. Petitioner lacks violent criminal convictions in the US and has not been
21 afforded a bond hearing where it comports with due process.

22 7. The following positive factors are also important to consider. Petitioner is not a threat
23 to national security, has no history of such activity and presents no danger to public
24 safety.

1 8. Finally, Petitioner has not participated in a criminal street gang and does not have any
2 gang related conviction as defined under in 18 U.S.C. § 521(a).

3 9. Based on the totality of these compelling mitigating factors, it demonstrates that
4 Petitioner merits, at the very least, a fair and impartial bond hearing where the
5 immigration court holds proper jurisdiction.

6 **LEGAL ARGUMENT**

7 1. Petitioner has resided in the United States since July 2023. He entered the US and DHS
8 granted him release on recognizance. Since then, he has continuously resided in this
9 country's interior, and has established robust familial, financial, and community ties
10 within the United States.

11 2. On January 19, 2026, Ms. Sahin was detained by Immigration and Customs
12 Enforcement ("ICE") during a traffic stop. Petitioner was re-detained and has remained
13 in DHS custody to this day.

14 3. This Court should grant habeas relief and order Respondents to release Petitioner on
15 the grounds that this case is not substantively distinguishable from the situation
16 addressed by the Eastern District Court of California's prior order in *Ayala Cajina v.*
17 *Wofford*, No. 1:25-cv-01566-DAD-AC (HC), 2025 WL 3251083 (E.D. Cal. Nov. 21,
18 2025).

19 4. Here, Respondents may maintain that he is subject to mandatory detention under 8
20 U.S.C. § 1225(b)(2)(A). This novel (re)interpretation of the Immigration and
21 Nationality Act ("INA")— specifically 8 U.S.C. § 1225(b)(2)(A)—contravenes
22 decades of consistent agency practice and current regulations, which previously
23 guaranteed similarly situated noncitizens the opportunity to be released on bond under
24 8 U.S.C. § 1226(a). See *Escobar Salgado v. Mattos*, No. 2:25-cv-01872 RFB-EJY,

2025 WL 3205356, at *5–6 (D. Nev. Nov. 17, 2025) (describing the government’s new detention policy based on its reinterpretation of § 1225(b)(2)(A)).

5. Nonetheless, it serves as the cornerstone of the Trump Administration’s new policy, effective July 8, 2025, of subjecting all noncitizens who entered the country without inspection to mandatory detention during the pendency of removal proceedings, which can take months or even years. Critically, the Board of Immigration Appeals (“BIA”) formally adopted the government’s radical reinterpretation of longstanding immigration law through a precedential decision which requires immigration judges to categorically reject bond for people like Petitioner. *See generally Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), *see also, generally, Laken Riley Act*.

6. Unsurprisingly, on January 19, 2026, ICE agents decided to re-detain Petitioner without a pre-deprivation hearing, without a “notice of revocation” and without making any findings as to dangerousness and/or flight risk.

7. Respondents may argue that detention during the pendency of removal proceedings is unreviewable as an extension of DHS’s decision to “commence removal proceedings” has explicitly been rejected by the Supreme Court as “uncritical literalism leading to results that no sensible person could have intended.” *Jennings*, 583 U.S. at 293–94 (citation modified). Because “[t]he government’s broad reading of § 1252(g) would lead to a result that is not contemplated in the statute and that has been disavowed by the Supreme Court,” the Court concludes Petitioner’s claims here do not concern discretionary actions barred from review by § 1252(g). *See Ibarra Perez*, 154 F.4th at 997.

8. That argument is also weak and unpersuasive because in *Jennings*, the Supreme Court specifically rejected the government’s broad reading of “arising from” under §

1 1252(b)(9)—which Respondents continue to assert here—as “extreme,” because by
2 only allowing challenges to detention authority through an appeal of a final order of
3 removal (i.e., after the period of detention under § 1225(b)(2) or §§ 1226(a) and (c) has
4 ended), that reading would “make claims of prolonged detention effectively
5 unreviewable.” *Jennings*, 585 U.S. at 293 (“By the time a final order of removal was
6 eventually entered, the allegedly excessive detention would have already taken place.
7 And of course, it is possible that no such order would ever be entered in a particular
8 case, depriving that detainee of any meaningful chance for judicial review.”).

9 9. Moreover, a reading of § 1252 that would “completely immunize[] [DHS’s] practices
10 and procedures [regarding detention] from due process challenges” cannot be
11 sustained. *Walters*, 145 F.3d at 1052.

12 10. As such, because Petitioner’s claims regarding the lawfulness of his detention during
13 the pendency of removal proceedings are “independent of or collateral to the removal
14 process,” § 1252(b)(9) does not bar them. *See Ibarra-Perez*, 154 F.4th at 996–97.

15 11. “It is well established that the Fifth Amendment entitles aliens to due process of law in
16 deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v.*
17 *Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government
18 custody, detention, or other forms of physical restraint—lies at the heart of liberty” that
19 the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also*
20 *id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause included
21 protection against unlawful or arbitrary personal restraint or detention.”). This
22 fundamental due process protection applies to all noncitizens, including both
23 removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“both

removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious”).

12. Due process therefore requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* at 690. Civil commitment for *any* purpose constitutes a significant deprivation of liberty. *Addington v. Texas*, 441 U.S. 418, 425 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

13. Following *Zadvydas* and *Demore*, every circuit court of appeals to confront the issue had found either the immigration statutes or due process require a hearing for noncitizens subject to unreasonably prolonged detention pending removal proceedings. *See Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020) (8 U.S.C. § 1226(a)); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016) (8 U.S.C. § 1226(c)); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199 (11th Cir. 2016) (detention under 8 U.S.C. § 1226(c)); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015) (8 U.S.C. § 1226(c)); *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015) (8 U.S.C. § 1226(c) and 8 U.S.C. § 1225(b)); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011) (8 U.S.C. § 1226(c)); *Diouf v. Holder (Diouf II)*, 634 F.3d 1081 (8 U.S.C. § 1231(a)); *Ly v. Hanse*, 351 F.3d 263 (6th Cir. 2003) (8 U.S.C. § 1226(c)) (requiring release when mandatory detention exceeds a reasonable period of time).

14. While the Supreme Court upheld the mandatory detention of a noncitizen under Section 1226(c) in *Demore*, it did so based upon the petitioner’s concession of deportability

1 and the Court's understanding that detentions under Section 1226(c) are typically
2 "brief". *Demore*, 538 U.S. at 522 n.6, 528.

3 15. Where a noncitizen has been detained for a prolonged period or is pursuing a substantial
4 defense to removal or claim to relief, due process requires an individualized
5 determination that such a significant deprivation of liberty is warranted. *Id.* at 532
6 (Kennedy, J., concurring) ("individualized determination as to his risk of flight and
7 dangerousness" may be warranted "if the continued detention became unreasonable or
8 unjustified"). *See also*, *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond
9 the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent*
10 *Inst.*, 407 U.S. 245, 249-50 (1972) ("lesser safeguards may be appropriate" for "short
11 term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (in Eighth
12 Amendment context, "the length of confinement cannot be ignored in deciding whether
13 [a] confinement meets constitutional standards").

14 16. Even if a bond hearing is not required after six-months in every case, at a minimum,
15 due process requires a bond hearing after detention has become unreasonably
16 prolonged. *See Diop*, 656 F.3d at 234. Courts that apply a reasonableness test have
17 considered three main factors in determining whether detention is reasonableness.

18 17. First, courts have evaluated whether the noncitizen has raised a "good faith" challenge
19 to removal—that is, the challenge is "legitimately raised" and presents "real issues".
20 *Chavez-Alvarez v. Wardern York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). In this
21 case, Petitioner's re-detention violates the fundamental Due Process of Law.

22 18. Second, reasonableness is a "function of the length of the detention," with detention
23 presumptively unreasonable if it lasts six-months to a year. *Id.* at 477-78; *accord Sopo*,
24 825 F.3d at 1217-18.

1 19. Third, courts have considered the likelihood that detention will continue pending future
2 proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after
3 nine months of detention, when the parties could “have reasonably predicted that
4 *Chavez-Alvarez*’s appeal would take a substantial amount of time, making his already
5 lengthy detention considerably longer”); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

6 20. To justify immigration detention, the government must bear the burden of proof by
7 *clear and convincing* evidence that the noncitizen is a danger or flight risk. *See Singh*
8 *v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011). Where the Supreme Court has
9 permitted civil detention in other contexts, it has relied on the fact that the Government
10 bore the burden of proof at least by *clear and convincing evidence*. *See United States*
11 *v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where “full-
12 blown adversary hearing,” requiring “clear and convincing evidence” and “neutral
13 decisionmaker”) *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil
14 detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692
15 (finding post-final-order custody review procedures deficient because, inter alia, they
16 placed burden on detainee).

17 21. The Ninth Circuit Court of Appeals confirmed that *Jennings v. Rodriguez*, 138 S. Ct.
18 830 (2018) did not invalidate the holding in *Singh* and *Rodriguez v. Robbins* (Rodriguez
19 III), 804 F.3d 1060 (9th Cir. 2015), which required that the Government justify a non-
20 citizen’s detention by *clear and convincing* evidence. *Aleman Gonzalez v. Barr*, ---
21 F.3d ---, 2020 WL 1684034 (9th Cir. Apr. 7, 2020).

22 22. Since *Jennings*, numerous district courts in this circuit and others have concluded that
23 due process requires the government to prove by *clear and convincing* evidence that a
24 non-citizen is a flight risk or a danger to the community to justify denial of bond. E.g.,

1 *Ixchop Perez v. McAleenan*, --- F. Supp. 3d ---, 2020 WL 1181492, at *4 (N.D. Cal. Jan.
2 23, 2020) (rejecting the government's "attempt to cabin *Singh* to only apply to *Casas*
3 hearings" as "illogical" since such interpretation would "create a system in which a
4 detained noncitizen bears the burden at their initial bond hearing, but the burden then
5 shifts at a *Casas* hearing"); *Singh v. Barr* ("Singh v. Barr"), 400 F. Supp. 3d 1005,
6 1017-18 (S.D. Cal. 2019) ("Because *Jennings* expressly addressed itself to the
7 mandates of the INA, and not the Constitution, the procedural due process holding[]
8 in *Singh* . . . still stand[s]."); *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 775 (N.D.
9 Cal. 2019); *Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1033 n.8 (W.D. Was.
10 2019); *Cortez v. Sessions*, 318 F. Supp. 3d 1134 (N.D. Cal. 2018), appeal dismissed,
11 2018 WL 4173027 (9th Cir. July 25, 2018); *Ramos v. Sessions*, 293 F. Supp. 3d 1021,
12 1029-30 (N.D. Cal. 2018).; *Diaz-Ceja v. McAleenan*, No. 19-CV-00824-NYW, 2019
13 WL 2774211, at *11 (D. Colo. July 2, 2019); *Darko v. Sessions*, 342 F. Supp. 3d 429
14 (S.D. N.Y. 2018); *Linares Martinez v. Decker*, 2018 WL 5023946, at *4 (S.D. N.Y.
15 Oct. 17, 2018); *Sajous v. Decker*, No. 28 Civ. 2447 (AJN), 208 WL 2357266, at *12
16 (S.D. N.Y. May 23, 2018); *Hernandez v. Decker*, No. 18 Civ. 5026 (ALC), 2018 WL
17 3579108, at *10 (S.D. N.Y. July 25, 2018); *Frederic v. Edwards*, No. 18 Civ. 5540
18 (AT), Docket No. 13 (S.D. N.Y. July 19, 2018); *Figueroa v. McDonald*, No. 18-CV-
19 10097 (PBS), --- F. Supp. 3d ---, --- 2018 WL 2209217, at *5 (D. Mass. May 17, 2018);
20 *Pensamiento*, 315 F. Supp. 3d 684, 692 (D. Mass. 2018); *Portillo v. Hott*, 322 F. Supp.
21 3d 698, 709 n.9 (E.D. Va. 2018).

22 23. The Fifth Amendment requires that, before depriving a person of his liberty, the
23 government allow that person to be heard at a meaningful time and in a meaningful
24 manner. *See Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The determination of

1 whether particular government conduct violates this procedural due process balances
2 (1) the private interest affected by the official action; (2) the risk of erroneous
3 deprivation of the interest and value (if any) of additional or substitute procedural
4 safeguards; and (3) the government's interest, including the burden that additional or
5 substitute procedural requirements would impose. *Id.* at 335.

6 24. To conform to the requirements of due process, such a hearing must take place before
7 an independent and impartial adjudicator. *Id.* at 334-35. The requirement that the
8 government bear the burden of proof by *clear and convincing* evidence is also
9 supported by application of the three-factor balancing test from *Mathews v. Eldridge*,
10 424 U.S. 319, 335 (1976).

11 25. First, prolonged incarceration deprives noncitizens of a "profound" liberty interest. *See*
12 *Diouf II*, 634 F.3d at 1091-92 (9th Cir. 2011). Second, the risk of error is heavily great
13 where the government is represented by trained and qualified attorneys and detained
14 noncitizens, as it is in this present case, are often unrepresented and frequently lack
15 English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear
16 and convincing evidence at parental termination proceedings because "numerous
17 factors combine to magnify the risk of erroneous factfinding" including that "parents
18 subject to termination proceedings are often poor, uneducated, or members of minority
19 groups" and "[t]he State's attorney usually will be expert on the issues contested").
20 Moreover, detainees are incarcerated in prison-like conditions that severely hamper
21 their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.
22 *See infra*. Third, placing the burden on the government imposes minimal cost or
23 inconvenience, as the government has access to the noncitizen's immigration records
24 and other information that it can use to make its case for continued detention.

1 26. Due process also requires consideration of non-punitive alternatives to detention. The
2 primary purpose of immigration detention is to ensure a noncitizen's appearance during
3 removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related
4 to this purpose if there are alternative conditions of release that could mitigate risk of
5 flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

6 27. While detention pending removal proceedings is constitutionally permissible, it must
7 comport with due process. Among other requirements, the government must justify
8 prolonged detention with *clear and convincing evidence* that the noncitizen presents a
9 current flight risk or danger to the community.

10 28. Finally, although the Court cannot review the IJ's discretionary judgement, it may
11 review the record for constitutional claims and legal error and to ensure that the *clear*
12 *and convincing evidence* standard is met as a matter of law. *Calderon-Rodriguez v.*
13 *Wilcox*, 374 F. Supp. 3d 1024, 2033 n.8 (W.D. Wash. 2019).

14 i. **Respondents Arbitrary Re-Detention Decisions Are Unlawful**
15 **and Deprive Petitioner of Due Process.**
16

17 75. Respondents, including DHS and ICE, have acted in an arbitrary and capricious manner
18 by cherry-picking arrests and selectively detaining noncitizens like Petitioner without
19 a reasoned basis or individualized assessment. Administrative detention must be
20 rationally related to its purpose—to secure attendance at proceedings or protect the
21 public—and cannot be punitive or arbitrary. *Zadvydas v. Davis*, 533 U.S. 678, 690
22 (2001) (civil detention must bear a reasonable relation to its purpose); *Judulang v.*
23 *Holder*, 565 U.S. 42, 53 (2011) (agency action must be based on a reasoned explanation
24 and not arbitrary decision-making).

25 76. The Ninth Circuit has consistently held that the government must provide

individualized determinations and consider less restrictive alternatives to detention.

77. Respondents' failure to provide a fair custody review or viable appeal rights leaves Petitioner in prolonged detention without meaningful process, warranting this Court's intervention and immediate release through the Great Writ of habeas corpus.

ii. Respondents' Cherry-Picking Detention Is Arbitrary, Capricious, and Violate Petitioner's Due Process.

78. Targeting Petitioner for arrest and re-detention under these circumstances amounts to impermissible "**cherry-picking**" enforcement—a practice in which the agency selectively targets compliant, law-abiding individuals while ignoring others similarly situated, without articulating any rational or lawful basis for the disparate treatment. Such arbitrary and inconsistent enforcement contravenes the constitutional guarantee of due process and equal protection under the Fifth Amendment.

79. The Supreme Court and Ninth Circuit have long condemned arbitrary exercises of executive power that lack rational justification or are applied in a discriminatory or inconsistent manner. Similarly, this Court has recognized that selective and capricious detention practices violate fundamental fairness where the agency fails to justify why one compliant individual is detained while others in comparable circumstances are released. *See Mendoza v. Barr*, No. 2:19-cv-00364-JAD-BNW, 2019 WL 6310259, at 3 (D. Nev. Nov. 25, 2019) (holding that continued detention without reasonable justification violated due process).

80. Petitioner's re-detention is arbitrary and selective enforcement of re-detention undermines the integrity of the immigration system, offends basic principles of justice, and violates the constitutional prohibition against arbitrary governmental action recognized in *County of Sacramento v. Lewis*, 523 U.S. 833, 845–46 (1998). *See*

1 *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must not be arbitrary or
2 capricious but must rest on a reasoned explanation).

3 81. ICE's conduct to re-detain Petitioner indefinitely constitutes an abuse of discretion and
4 a violation of substantive due process. Petitioner's re-detention should therefore be
5 declared unlawful, and his immediate release ordered, as continued confinement under
6 such capricious enforcement serves no legitimate governmental purpose and directly
7 contravenes the Constitution to the United States.

8 82. Such selective enforcement is constitutionally suspect and undermines the integrity of
9 the immigration system. The Supreme Court has emphasized that agency actions must
10 be guided by intelligible principles and consistent application of law. *Encino*
11 *Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016) (agency decisions must reflect
12 reasoned analysis and avoid arbitrary departures from settled policy). Respondents'
13 decision here to indefinitely detain Petitioner reflects no individualized assessment of
14 danger or flight risk, as required by due process.

15 83. Because Respondents' re-detention decisions lack a rational connection to a legitimate
16 governmental objective and instead reflect arbitrary "cherry-picking" enforcement, this
17 Court should grant the writ of habeas corpus and order Petitioner's immediate release.

18 84. Judicial intervention is necessary to prevent further constitutional injury and to ensure
19 that agency discretion is exercised within lawful bounds. Agency action that disregards
20 binding legal obligations is arbitrary and capricious under the APA, 5 U.S.C. §
21 706(2)(A). This Court should conclude that DHS/ICE's decision to re-detain Petitioner
22 was arbitrary, capricious, and unconstitutional, particularly where the undisputed
23 record establishes that Petitioner has no material changed circumstances and has not
24 been afforded a pre-deprivation hearing.

1 85. ICE identified no new facts, no material changed circumstances, or individualized
2 justification warranting re-detention. Such unexplained re-arrest and re-detention, after a
3 period of successful compliance and community integration, violates fundamental
4 principles of due process.

5 86. District courts have likewise granted habeas relief where ICE re-detains or continues to
6 detain individuals without a material change in circumstances or without procedural
7 safeguards. *See, e.g., Aleman Gonzalez v. Barr*, 325 F. Supp. 3d 1177, 1185–86 (E.D. Cal.
8 2018) (holding that detention without adequate justification or procedural protections
9 violates due process); *Gonzalez v. Bonnar*, No. 1:20-cv-00464, 2020 WL 7338497, at 4–
10 5 (E.D. Cal. Dec. 14, 2020) (granting habeas relief where petitioner demonstrated
11 compliance, community ties, and lack of danger).

12 87. Again, ICE re-detained Petitioner without a pre-deprivation hearing, any arrest warrant or
13 due process. This Court should conclude that these actions “entirely fail to consider an
14 important aspect of the problem” and are unlawful. *See Motor Vehicle Mfrs. Ass’n v. State*
15 *Farm*, 463 U.S. 29, 43 (1983).

16 **CLAIMS FOR RELIEF**

17 **FIRST CLAIM FOR RELIEF IN VIOLATION OF DUE PROCESS CLAUSE OF THE**
18 **FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

19 98. This Court should order Petitioner’s immediate release because Respondents arbitrary
20 and capricious re-detention decisions violate the Fifth Amendment’s guarantee of due
21 process All persons, including aliens, residing in the United States are protected by the
22 Due Process Clause of the Fifth Amendment to the United States Constitution. *See*
23 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982).

1 99. Re-detention by the Respondents puts at risk Petitioner's protected liberty interest. The
2 Due Process Clause of the Fifth Amendment forbids the government from depriving any
3 "person" of liberty "without due process of law." *See U.S. Const. amen. V.*

4 **COUNT TWO: STATUTORY VIOLATIONS**

5 100. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. §
6 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. The Supreme Court held in
7 *Zadvydas* and *Martinez* that ICE's continued detention of someone like Petitioner under
8 such circumstances is unlawful.

9 **COUNT THREE: SUBSTANTIVE DUE PROCESS VIOLATION**

10 101. Petitioner's continued detention violates his right to substantive due process through a
11 deprivation of the core liberty interest in freedom from bodily restraint.

12 102. The Due Process Clause of the Fifth Amendment requires that the deprivation of
13 Petitioner's liberty be narrowly tailored to serve a compelling government interest.

14 103. While Respondents would have an interest in detaining him in order to effectuate
15 removal, that interest does not justify his indefinite detention where he is not likely to be
16 deported in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue
17 to detain aliens only for a period reasonably necessary to secure the alien's removal.

18 **COUNT FOUR: PROCEDURAL DUE PROCESS VIOLATIONS**

19 104. Under the Due Process Clause of the Fifth Amendment, Petitioner is entitled to a timely
20 and meaningful opportunity to demonstrate that he should not be re-detained. Petitioner
21 in this case has been denied that opportunity. Petitioner respectfully notes that ICE does
22 not make decisions concerning aliens' custody status in a neutral and impartial manner.
23 The failure of Respondent to provide a neutral decision-maker to review the continued
24 custody of Petitioner violates his right to procedural due process.

1 105. Even if Petitioner's re-detention is authorized under Section 1231, 1225 or 1226, his
2 continued detention must comport with due process and argues his re-detention violates
3 his due process rights; he requests immediate release from Respondents.

4 106. Petitioner warrants immediate release based on the underlying fact that re-detention no
5 longer serves any legitimate governmental purpose and instead constitutes an arbitrary
6 deprivation of liberty contrary to the principles articulated in *Zadvydas* and its Ninth
7 Circuit progeny.

8 107. The Supreme Court has held that a noncitizen cannot be detained indefinitely in a
9 removable but-not-removable status; the most common situation occurs when no country
10 can be found to accept the noncitizen. *Zadvydas*, 533 U.S. 678.

11 108. Petitioner respectfully requests that this Court order Respondents to show cause why the
12 writ should not be granted "within three days unless for good cause additional time, not
13 exceeding twenty days, is allowed," and set a hearing on this Petition within five days of
14 the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering
15 Respondents to immediately release Petitioner.

16 **IN THE ALTERNATIVE, A PRELIMINARY INJUNCTION RELIEF IS**
17 **WARRANTED TO PREVENT IRREPARABLE HARM**

18 109. Petitioner respectfully requests that this Court issue a preliminary injunction ordering his
19 release from ICE custody. Petitioner respectfully requests that this Honorable Court issue
20 a preliminary injunction ordering his immediate release from ICE custody.

21 110. Respondents have not provided a pre-deprivation hearing, have failed to produce a
22 "notice of revocation" and lacks any evidence of justifying Petitioner's re-detention. In
23 the past, DHS/ICE released Petitioner under a release of recognizance.

24 111. Federal courts have consistently recognized that immigration detention becomes

1 arbitrary and punitive where ICE re-detains an individual without a criminal record,
2 without changed circumstances, and without an individualized justification following a
3 prior release. Where a petitioner has demonstrated compliance with supervision, and
4 posed no danger to the community, courts have held that re-detention violates due process
5 because it no longer serves a legitimate civil purpose. *See Singh v. Holder*, 638 F.3d 1196,
6 1203–05 (9th Cir. 2011) (detention without meaningful procedural safeguards violates due
7 process).

8 **112.** District courts have granted habeas relief where ICE failed to articulate a lawful basis for
9 continued or renewed detention of noncitizens. *See Aleman Gonzalez v. Barr*, 325 F. Supp.
10 3d 1177, 1185–86 (E.D. Cal. 2018) (holding detention unconstitutional where ICE failed
11 to provide adequate justification and procedural protections); *Gonzalez v. Bonnar*, No.
12 1:20-cv-00464, 2020 WL 7338497, at 4–5 (E.D. Cal. Dec. 14, 2020) (granting habeas
13 relief where petitioner was compliant, posed no danger, and detention had indicated
14 punitive character). Here, ICE’s sudden re-detention—without notice of revocation,
15 explanation, or evidence of changed circumstances—renders the detention punitive rather
16 than civil, in violation of due process.

17 **113.** Injunctive relief is appropriate where the petitioner demonstrates: (1) a likelihood of
18 success on the merits, (2) irreparable harm absent relief, (3) that the balance of equities tips
19 in his favor, and (4) that the public interest supports relief. *Winter v. Nat. Res. Def. Council*,
20 555 U.S. 7, 20 (2008); *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th
21 Cir. 2011) (a serious question going to the merits plus a balance of hardships that tips
22 sharply toward the petitioner also supports injunctive relief).

23 **A. Likelihood of Success on the Merits**

24 **114.** Petitioner’s re-detention without a constitutionally adequate bond hearing violates the

1 Fifth Amendment's Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)
2 (civil detention must bear a reasonable relation to its purpose and cannot be indefinite).
3 Because Respondents has badly failed to properly justify Petitioner's re-detention under
4 the appropriate legal standard, success on the merits is likely.

5 **B. Irreparable Harm**

6 **115.** Petitioner suffers irreparable harm every day that his liberty is restrained in violation of
7 due process. His re-detention imposes significant psychological hardship and impedes his
8 ability to meaningfully participate in his defense. The deprivation of liberty is the
9 quintessential form of irreparable harm. His re-detention inflicts ongoing and irreparable.

10 **116.** Federal courts have consistently recognized that habeas corpus relief is appropriate when
11 the deprivation of liberty causes significant humanitarian consequences. *See Sivaraman v.*
12 *U.S. Dep't of Homeland Sec.*, 486 F. Supp. 3d 1077, 1085 (N.D. Cal. 2020) (granting
13 habeas relief where petitioner's prolonged detention had devastating effects on his health
14 and family). Here, the government's re-detention of Petitioner serves no legitimate
15 purpose and inflicts profound harm on him—harm that cannot be undone by later judicial
16 relief. Because these facts demonstrate both a constitutional violation and the existence of
17 irreparable injury, the Court should exercise its equitable authority under 28 U.S.C. § 2241
18 to grant habeas relief and order his immediate release.

19 **C. Balance of Equities**

20 **117.** The balance of equities strongly favors Petitioner's release. The government's interest in
21 ensuring attendance at removal proceedings can be met through less restrictive means,
22 such as bond or supervision, particularly where Petitioner has taken steps of rehabilitation
23 and no record of absconding. *See Valdez-Jimenez v. Eighth Judicial Dist. Ct.*, 460 P.3d
24 976, 992 (Nev. 2020) (holding that due process requires individualized findings before

1 continued pretrial detention). Petitioner's re-detention imposes significant hardship on
2 Petitioner, while release under reasonable conditions poses no harm to the government.

3 **D. Public Interest**

4 **118.** The public interest is always served by upholding constitutional rights and preventing
5 unlawful detention. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (recognizing
6 that enforcement of constitutional rights is in the public interest). Prompt judicial
7 intervention will preserve the integrity of removal proceedings and reinforce the rule of
8 law. Public interests favor Petitioner's release.

9 **119.** Petitioner's detention goes against United States Supreme Court precedent which
10 recognizes that individuals who have been granted released from custody, even where
11 such release is conditional, have a liberty interest in their continued release. *Morrissey*,
12 408 U.S. 471 at 482. Given this, Petitioner has established a strong likelihood of success
13 in showing that she has a liberty interest as her private interest has been impacted by her
14 detention. *See Manzanarez v. Bondi*, No. 1:25-CV-01536-DC-CKD (HC), 2025 WL
15 3247258, at *4 (E.D. Cal. Nov. 20, 2025) (finding similarly).

16 **120.** In similar cases, federal courts regularly hold that detaining noncitizens without pre-
17 deprivation hearing in which the government bears the burden of proof violates due
18 process, and grants the preliminary relief Petitioner seeks here. *See Garro Pinchi v. Noem*,
19 __ F. Supp. 3d __, 2025 WL 2084921, at *7 (converting TRO requiring release of asylum
20 seeker arrested at her immigration court hearing into preliminary injunction prohibiting
21 the government from re-detaining her without a hearing); *Singh v. Andrews*, 2025 WL
22 1918679, *8-10 (E.D. Cal. July 11, 2025) (granting PI under similar circumstances); *Doe*,
23 2025 WL 691664, at *8 (granting TRO over one month after petitioner's initial detention);
24 *see also, e.g., Diaz*, 2025 WL 1676854, at *3- *4; *Garcia v. Bondi*, No. 3:25-CV-05070,

2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025); *Jorge M. F.*, 2021 WL 783561, at *4; *Romero v. Kaiser*, No. 22-CV-02508-TSH, 2022 WL 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

121. Several federal courts have ordered release for petitioners whose immigration case are still pending.² See, e.g., *Hinestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL 2606983, at *2 (N.D. Cal. Sept. 9, 2028); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *12 (D. Mass Sept. 9, 2025); *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-KES-SKO (HC), 2025 WL 2617255, at *6 (E.D. Cal. Sept. 9, 2025).

122. The courts in those cases have determined that, for these long-term releases, liberty is the status quo, and only return to that status quo can vert irreparable harm.

123. Granting this relief would not even be breaking new ground. Indeed, other federal courts have granted habeas relief. See *Cavieres Gomez v. Mattos*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 3101994, at *6–7 (D. Nev. Nov. 6, 2025). See also, *Shadalo v. Mattos et al*, No. 2:25-CV-02076-RFB-BNW (D. Nev. Dec. 14, 2025) and relevant cases. Petitioner therefore respectfully requests that this Court grant this preliminary injunction and moves for immediate release. This Court should find that “petitioner is entitled to h[is] release” on an order of supervision. *Liu*, 2025 WL 1696526, at *3.

124. For these reasons, this Court should grant immediate release or, in the alternative, order Respondents to afford Petitioner a bond hearing under 8 U.S.C. § 1226(a) where DHS

² Because immigration detainees whose cases have not been adjudicated are entitled only to a bond hearing-not to outright release-some of these TROs and preliminary injunctions require release unless ICE provides that hearing. But because *Zadvydas* requires outright release on supervision, a TRO or preliminary injunction is fitted to Petitioner’s claims should order that relief.

bears the heavy burden of proof, under the correct legal standard and analysis of *clear and convincing evidence* establishing danger or flight risk.

125. Regardless whether Sahin was released under ISAP, ISUP, OSUP or under and Order of Recognizance, the revocation of his release is governed by 8 C.F.R. § 241.13(i). Importantly, this regulation required notice and an opportunity to be heard and only allows for re-detention when, “if, on account of changed circumstances,” it is determined that “there is a significant likelihood that the [noncitizen may be removed in the reasonably foreseeable future.”

126. This regulation concerning re-detention while under ICE supervision was created to provide due process protection to non-citizens. *Ghafouri v. Noem*, No. 3:25-cv-02675-RBM-BLM, 2025 WL 3085726 at *4 (S.D. Cal. Nov. 4, 2025). The re-detention here violated both the regulation and due process. Respondents do not even engage with this claim. They do not claim § 241.13 at all. They do not directly respond to any of the regulation arguments made in the Habeas Petition or regulation arguments made in the request for preliminary injunction relief. The arguments they claim are completely irrelevant to the claim.

127. Respondents do not, nor could they, dispute Sahin’s allegations that he was not given proper notice of the reason for the re-detention or an opportunity to be heard on those purported reasons. Respondents make no real attempt to contest this claim. They do not discuss or even cite the relevant regulations. Rather, they may simply contend that his detention is authorized. But that contention is irrelevant in this claim. This claim concerns the process guaranteed to Sahin related to his *re-detention*. See *Fajardo v. Raycraft*, No. 1:25-CV-1529, 2025 WL 3649522, at *4 (W.D. Mich. Dec. 17, 2025) (“However, Respondents arguments confuse their ability to hold Petitioner once properly detained

1 with Petitioner's "right not to be detained without adequate—in fact, without any—
2 process."). As shown above, those regulations govern this situation. Respondents' failure
3 to discuss any of this in their Response must be viewed as a concession.

4 **128.** Government agencies are required to follow their own regulations. *United States ex rel.*
5 *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). The failure to follow the regulations
6 prejudiced Sahin because it deprived him of his due process protections. Because there is
7 no indication that any of the required process was provided to Petitioner—notice of
8 revocation, opportunity to be heard, and a valid reason for the re-detention—this Court
9 should grant relief, just as in the large number of cases that have granted relief on this
10 claim. *See, e.g., Moskovyan v. Noem*, No. 3:25-cv-03537-RBM-AHG, 2026 WL 63472
11 at *2 (S.D. Cal. Jan. 8, 2026) (granting petition based on ICE's failure to follow its own
12 regulations on re-detention); *Briones v. LaRose*, No. 3:25-cv-03421-RBM-AHG, 2026
13 WL 18787 at *2-3 (S.D. Cal. Jan. 2, 2026) (same); *Fajardo*, 2025 WL 2649522 at *5-6;
14 *Touch v. Noem*, No.: 3:25-cv-03118-RBM-AHG, 2025 WL 3278019 at *3, *6 (S.D. Cal.
15 Nov. 25, 2025), *adopted*, No.: 3:25-cv-03118-RBM-AHG, 2025 WL 3296280 (S.D. Cal.
16 No. 26, 2025); *Rasakhamdee v. Noem*, No.: 3:25-cv-02816-RBM-DEB, 2025 WL
17 3102037 at *4-5 (S.D. Cal. Nov. 6, 2025) (same); *J.R. v. Bostock*, 25-cv-01161-JNW,
18 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v. Janecka*, 25-cv-01475-
19 MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025); *Ortega v. Kaiser*, 25-cv-05259-
20 JST, 2025 WL 1771438 (N.D. Cal. Jun. 26, 2025); *Hoac v. Becerra*, No. 2:25-CV-01740-
21 DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16, 2025); *Phan v. Beccerra*, No. 2:25-
22 CV-01757-DC-JDP, 2025 WL 1993735, at *7 (E.D. Cal. July 16, 2025). Courts in this
23 district have granted a temporary restraining order, preliminary injunction or habeas relief
24 on this claim.

1 67. Specifically, a noncitizen's release may be revoked "if, on account of changed
2 circumstances," it is determined that "there is a significant likelihood that the
3 [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. §
4 241.13(i)(2). Upon such determination:

5 [T]he [noncitizen] will be notified of the reasons for
6 revocation of his or her release. The Service will conduct an
7 initial informal interview promptly after his or her return to
8 Service custody to afford the [noncitizen] an opportunity to
9 respond to the reasons for revocation stated in the notification.
10 The [noncitizen] may submit any evidence or information that
11 he or she believes shows there is no significant likelihood he or
12 she be removed in the reasonably foreseeable future, or that he
13 or she has not violated the order of supervision. The revocation
14 custody review will include an evaluation of any contested facts
15 relevant to the revocation and a determination whether the facts
16 as determined warrant revocation and further denial of release.

17 68. *Id.* 241.13(i)(3). This regulation concerning re-detention while on OSUP, OREC, ISAP
18 or ISUP was created to provide due process protection to non-citizens. *Ghafouri*, 2025
19 WL 3085726 at *4. In this particular case, ICE has badly failed to comply with *every*
20 *single* requirement in this regulation.
21

22 69. It is clear from the record that ICE violated the regulations in every way. Respondents
23 did not present any evidence to show that Petitioner was given any notice of why he
24 was being re-detained prior to ICE re-arresting him. Although regulation requires
25 notice "upon revocation", there is no evidence that ICE has ever provided Petitioner
26 with a "Notice of Revocation of Release" form. Petitioner was never told why he was
27 being re-detained. Yet, having no violations, no change in circumstances and without
28 any "Notice of Revocation of Release", he was re-detained for some capricious reason.

29 70. In this case, ICE badly failed to provide Petitioner with "reasons for revocation," they
30 failed to allow Mr. Sahin an "opportunity to respond to the reasons for revocation," and

Petitioner was not allowed to “submit any evidence or information” relevant to re-detention and evaluating “any contested facts.” 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). “[B]ecause officials did not properly revoke petitioner’s release pursuant to the applicable regulations,” this Court will likely find that “petitioner is entitled to his release” on an order of supervision. *Liu*, 2025 WL 1696526, at *3. Petitioner re-alleges and incorporates by reference the paragraphs above.

71. “Just as the public has an interest in the orderly and efficient administration of this country’s immigration laws, [] the public has a strong interest in upholding procedural protections against unlawful detention.” *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020) (internal quotation omitted); *see also Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (“Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution.”). Petitioner has demonstrated that he is likely unlawfully detained in violation of his due process rights and is suffering irreparable harm as a result.

72. On the other hand, the burden on Respondents in releasing Petitioner from detention is minimal. “[T]he only potential injury that the government faces is a ‘short delay’ in detaining Petitioner[] if it ‘ultimately demonstrates to a neutral decisionmaker’ that their detention is necessary to prevent flight or danger to the community.” *Valencia Zapata*, 2025 WL 2741654, at *13 (quoting *Salcedo Aceros*, 2025 WL 2637503, at *14). Respondents cannot reasonably assert that the public and government will be harmed in any legally cognizable sense by being enjoined from violating Petitioner’s due process rights, which is the case here. *See Zepeda v. U.S. Immigr. & Nat. Serv.*, 753 F.2d 719, 727 (9th Cir. 1983) (finding “the INS cannot reasonably assert that it is

1 harmed in any legally cognizable sense by being enjoined from constitutional
2 violations.”).

3 73. “[E]ven when an initial decision to detain or release an individual is discretionary, the
4 government’s subsequent release of the individual from custody creates ‘an implicit
5 promise’ that the individual’s liberty will be revoked only if they fail to abide by the
6 conditions of their release.” *Calderon v. Kaiser*, No. 25-cv-06695-AMO, 2025 WL
7 2430609, at *2 (N.D. Cal. Aug. 22, 2025) (quoting *Morrissey v. Brewer*, 408 U.S. 471,
8 482 (1971)); *see also Valencia Zapata v. Kaiser*, — F. Supp. 3d —, No. 25-cv-07492-
9 RFL, 2025 WL 2741654, at *6 (N.D. Cal. Sept. 26, 2025). “Accordingly, a noncitizen
10 released from custody pending removal proceedings has a protected liberty interest in
11 remaining out of custody[]” where an immigration official “elected to release” a
12 petitioner on their own recognizance. *Salcedo Aceros v. Kaiser*, No. 25-cv-06924
13 EMC, 2025 WL 2637503, at *6–7 (N.D. Cal. Sept. 12, 2025); *see also Polo v. Chestnut*,
14 No. 1:25-cv-01342-JLT-HBK, 2025 WL 2959346 (E.D. Cal. Oct. 17, 2025) (collecting
15 cases holding that an individual released from immigration detention has a protected
16 liberty interest in continued release).

17 74. In this case, as in many others to have recently come before this court, petitioner
18 acquired a liberty interest in his continued freedom when DHS elected to release him
19 in July 2023. *See Cordero Pelico v. Kaiser*, No. 25-cv-07286-EMC, 2025 WL
20 2822876, at *7 (N.D. Cal. Oct. 3, 2025) (finding that the petitioners’ release “implied
21 a promise that they would not be re-detained so long as they abided by the terms of
22 their release”); *F.M.V. v. Wofford*, No. 1:25-cv-01381 KES-SAB (HC), 2025 WL
23 3083934, at *4 (E.D. Cal. Nov. 4, 2025) (“[R]eliance on governmental representations
24 may establish a legitimate claim of entitlement to a constitutionally protected

1 interest.”); *Valencia Zapata*, 2025 WL 2741654 at *6 (“[A] noncitizen released from
2 custody pending removal proceedings has a protected liberty interest in remaining out
3 of custody.”).

4 75. This Court therefore need not determine whether § 1225 or § 1226 applies in this case
5 because Petitioner has a liberty interest in his continued release regardless of the
6 applicable detention scheme. *See Polo*, 2025 WL 2959346 at *11 (explaining that
7 “even assuming Respondents are correct that § 1225(b) is the applicable detention
8 authority,” the respondents failed to contend with the “liberty interest created by the
9 fact that the Petitioner . . . was released on recognizance”); *Espinoza v. Kaiser*, No.
10 1:25-cv-01101-JLT-SKO, 2025 WL 2581185, at *10 (E.D. Cal. Sept. 5, 2025) (same);
11 *Pablo Sequen v. Albarran*, No. 25-cv-06487-PCP, 2025 WL 2935630, at *5 (N.D. Cal.
12 Oct. 15, 2025) (same); *Doe v. Becerra*, 787 F. Supp. 3d 1083 (E.D. Cal. 2025) (finding
13 the petitioner had a liberty interest in his continued liberty even though petitioner had
14 conceded that he was subject to mandatory detention under § 1225(b)(1)(B)(ii)).
15 Accordingly, the Court should find that Petitioner Dogukan Sahin is likely to be
16 successful as to his claim that he has a liberty interest in his continued release.

17 76. Petitioner asserts that the risk of erroneous deprivation is high without a pre-detention
18 bond or custody redetermination hearing in front of a neutral adjudicator because
19 immigration officials have already deprived him of his liberty absent a showing of
20 changed circumstances. Several courts have already found that such a risk is high in
21 cases similar to Petitioner’s. *See, e.g., Salcedo Aceros*, 2025 WL 2637503, at *12
22 (finding that the petitioner’s risk of erroneous deprivation was high because a bond
23 hearing would likely reveal that the petitioner still presented no public safety or flight
24 risk); *see also Calderon*, 2025 WL 2430609, at *3 (“Where an individual has not

1 received a bond or redetermination hearing, the risk of an erroneous deprivation of
2 liberty is high.”); *Pinchi v. Noem*, No. 25-cv 05632-RMI-RFL, 2025 WL 1853763, at
3 *2 (N.D. Cal. July 4, 2025) (finding a risk of erroneous deprivation without a bond
4 hearing pre-detention where the petitioner was re-detained after having been released
5 on her own recognizance at the border by immigration officials).

6 77. Petitioner further asserts that the government has only negligible interest in re-detaining
7 him without providing a pre-detention custody hearing in front of a neutral adjudicator.
8 “In immigration court, custody hearings are routine and impose a minimal cost.”
9 *Salcedo Aceros*, 2025 WL 2637503, at *12 (internal quotation marks omitted) (quoting
10 *Singh*, 2025 WL 1918679, at *7); see *Espinoza*, 2025 WL 2581185 at *11 (“[T]he
11 Court concludes that Respondents’ interest in detaining Petitioners or re-detaining them
12 without a hearing, is slight.”). Respondents have made no argument that its interest in
13 detaining Petitioner outweighs the cost of providing the additional process to which
14 Petitioner is due.

15 78. Accordingly, this Court should find that the balance of equities and public interest
16 weigh in favor of injunctive relief and consequently, all four *Winter* factors weigh in
17 favor of Petitioner.

18 STATUS QUO

19 79. “The status quo ante litem is the last uncontested status which preceded the pending
20 controversy.” *Hoac*, 2025 WL 1993771, at *7 (internal quotation marks and brackets
21 omitted) (quoting *GoTo.com, Inc. v. Walt Disney, Co.*, 202 F.3d 1199, 1210 (9th Cir.
22 2000)). “A TRO immediately releasing Petitioner is appropriate to return him to the
23 status quo. . . . That is the moment prior to Petitioner’s likely illegal detention.” *Larios*
24 *v. Albarran*, No. 25-cv-08799 AMO, 2025 WL 2939223, at *3 (N.D. Cal. Oct. 16,

2025). Accordingly, this Court should conclude that the immediate release of petitioner on the same conditions he was subject to prior to his detention on January 19, 2026, is necessary to restore the status quo.

BOND

80. With respect to Bond, this Court should decline a bond. “Federal Rule of Civil Procedure 65(c) permits a court to grant preliminary injunctive relief ‘only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.’” *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) (quoting Fed. R. Civ. P. 65(c)). “Despite the seemingly mandatory language, ‘Rule 65(c) invests the district court with discretion as to the amount of security required, if any.’” *Id.* (quoting *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003)). “In particular, ‘[t]he district court may dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.’” *Johnson*, 572 F.3d at 1086 (quoting *Jorgensen*, 320 F.3d at 919). Here, Petitioner asks that no bond be required and for this Court to find that no security is required here.

129. Courts regularly waive security in cases like this one. *Diaz v. Brewer*, 656 F.3d 1008, 1015 (9th Cir. 2011); *Lepe v. Andrews*, No. 25-cv-01163-KES-SKO, 2025 WL 2716910, at *10 (E.D. Cal. Sep. 23, 2025); *Pinchi v. Noem*, No. 25-cv-05632-RMI-RFL, 2025 WL 1853763, at *4 (N.D. Cal. Jul. 4, 2025).

130. Based on the laws and facts, Petitioner’s re-detention and ongoing detention violates due process and his primary requested relief is release from custody because immediate release is the appropriate remedy here because Petitioner is likely to succeed on the merits of his claim that his detention was unlawful because Respondents have

not shown that there was a change in circumstances between the immigration official's custody determination on July 2023, and Petitioner's re-detention, on January 19, 2026.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests and prays for this Court:

131. Assume jurisdiction over this matter;

132. Issue a declaration that Petitioner's re-detention violates the Due Process Clause of the Fifth Amendment and the Eighth Amendment;

133. Grant Petitioner a Writ of Habeas Corpus directing the Respondents to immediately release Petitioner from custody with the same conditions he was subject to immediately prior to his detention on January 19, 2026;

134. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention; or in the alternative

135. Enjoin and Restrain Respondents from re-detaining Petitioner for any purpose, absent exigent circumstances, without providing petitioner notice and a pre-detention hearing before an immigration judge where respondents will have the burden to demonstrate that petitioner is a danger to the community or a flight risk;

136. Issue a Writ of Habeas Corpus and order Petitioner's release within twenty ("20") days, unless the Respondents schedule a hearing before an immigration judge where it holds proper jurisdiction and where: (1) to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the government cannot meet its burden, the immigration judge order Petitioner's release on appropriate conditions of supervision, taking into consideration Petitioner's ability to pay a bond;

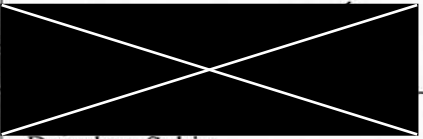
1 **137.** Issue an Order that Respondents shall not transfer Petitioner to another detention center
2 outside of this judicial district, pending further order of the court. *See* 28 U.S.C. § 1651(a)
3 (establishing the All Writs Act which empowers the federal courts to "issue all writs
4 necessary or appropriate in aid of their respective jurisdictions...."); *see also F.T.C. v. Dean*
5 *Foods Co.*, 384 U.S. 597, 604 (1966) (emphasizing that federal courts have the power to
6 "to preserve the court's jurisdiction or maintain the status quo by injunction pending
7 review of an agency's action").

8 **138.** Issue a declaration that Petitioner's re-detention violates the Due Process Clause of the
9 Fifth Amendment and the Eighth Amendment;

10 **139.** Award Petitioner his costs in this action as provided for by the Equal Access to Justice
11 Act ("EAJA"), as amended, 5 U.S.C. § 504 and, 28 U.S.C. § 2412, and on any other basis
12 justified under law; and

13 **140.** Grant such further relief as this Court deems just and proper.

14
15 **Respectfully submitted on this 9th day of April, 2026.**
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18
19 Dogukan Sahin

20 Alien No. 

21 Otay Mesa Detention Center

22 7488 Calzada de la Fuente

23 San Diego, CA 92154
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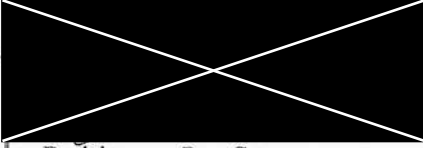
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7 **ACKNOWLEDGEMENT AND VERIFICATION**

8 Under penalty of perjury, the undersigned declares that he is the named Petitioner in the
9 foregoing petition. I have read the foregoing petition and its contents. The statements in the
10 petition are true and correct to the best of my knowledge, except as to any statements alleged
11 on information and belief, and as to those statements, I believe them to be true.

12
13 **DATED this 9th day of April, 2026.**

14
15 
16
17 -Petitioner, *Pro Se*

18 Dogukan Sahin

19 Alien No. 

20 Otay Mesa Detention Center

21 7488 Calzada de la Fuente

22 San Diego, CA 92154

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

DOGUKAN SAHIN
ALIEN No. [REDACTED]
PETITIONER, PRO SE
CUSTODY STATUS: DETAINED