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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Manuel Garcia Ugalde,

Petitioner,

v.

David Venturella, *et al.*,

Respondents.

Case No. 2:26-cv-01243-APG-EJY

First Amended Petition for Writ of Habeas Corpus

INTRODUCTION

Petitioner seeks habeas relief under 28 U.S.C. § 2241 because Respondents continue to detain him without the bond process required by § 1226(a), due process, and *Jacobo-Ramirez*. Petitioner is a *Jacobo-Ramirez* class member who requested bond, followed the Immigration Judge's instructions to submit sponsor, address, and employment evidence, and then never received an adjudication of that custody request. Instead, the immigration court treated his bond submission as merits evidence in his removal proceeding, leaving him detained without the custody redetermination he requested and was entitled to receive.

Petitioner also alleges that, after the removal order, Respondents subjected him to punitive and coercive conditions during a hunger strike, including conditioning the return of basic bedding and access to appeal paperwork on his agreement to eat. Because Petitioner's continued detention rests on unlawful custody process and punitive civil detention conditions, he respectfully requests immediate release or, in the alternative, a prompt constitutionally adequate bond hearing with appropriate safeguards.

JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which grants federal courts authority to issue writs of habeas corpus to individuals in custody when that custody violates "the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *see also Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (holding § 2241 is the proper vehicle through which to challenge the constitutionality of a noncitizen's detention without bail); *Jennings v. Rodriguez*, 583 U.S. 281, 294–96 (2018) (holding neither 8 U.S.C. § 1226(e) nor § 1252(b)(9) bar review of constitutional challenges to prolonged immigration detention). Venue is proper in the District of Nevada under 28 U.S.C. § 1391(e) because Petitioner is detained in this district and a substantial part of the events or omissions giving rise to his claims occurred in this district.

PARTIES

Petitioner is a native and citizen of Cuba and is currently detained by ICE at the Nevada Southern Detention Center in Pahrump, Nevada.

John Mattos is the warden of Nevada Southern Detention Center. Mattos, in his official capacity, is the immediate custodian of Petitioner.

Ruben Leyva is the Acting Director for the Salt Lake City Field Office of U.S. Immigration and Customs (ICE) Enforcement and Removal Operations (ERO), which has jurisdiction over civil immigration detainees at detention facilities in

Nevada, including NSDC. Mr. Leyva is named in his official capacity and is a legal custodian of Petitioner.

David J. Venturella is the Acting Director of Immigration and Customs Enforcement, which is responsible for administering and enforcing immigration laws, including the detention and removal of immigrants. Lyons, in his official capacity, is a legal custodian of Petitioner.

Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security (DHS). Mr. Mullin is named in his official capacity. As the Secretary of DHS, Mr. Mullin is responsible for administering immigration laws. *See* 8 U.S.C. § 1103(a). He is a legal custodian of Petitioner

Todd Blanche is the Acting Attorney General of the United States. Mr. Blanche is named in his official capacity. The Acting Attorney General delegates his authority to interpret immigration laws and adjudicate removal cases to the Executive Office of Immigration Review (EOIR), which includes the immigration courts and the Board of Immigration Appeals. *See* 8 C.F.R. § 1003.0. Mr. Blanche is a legal custodian of Petitioner.

FACTS AND PROCEDURAL HISTORY

Petitioner is a 33-yeard old native and citizen of Cuba. He entered the United States in or around March 2022 after leaving Cuba, traveling through Nicaragua and other countries, and entering near Texas.[1] DHS apprehended Petitioner near the border and issued him a Notice to Appear, and released Petitioner on his own recognizance while his removal proceedings remained pending on the non-detained

[1] Any factual allegations that do not cite to a specific document are made on information and belief.

docket.[2] Petitioner applied for asylum in October 2022. His next non-detained hearing was scheduled for October 1, 2026.[3]

After his release, Petitioner lived in Florida, including in Lakeland and Orlando, where he has family ties. Petitioner's father lives in Orlando and is in the process of obtaining lawful status. Petitioner also has other family members in the United States, including relatives in Florida who are United States citizens or lawful permanent residents. Petitioner has a United States citizen child and worked at a tire shop. If released, Petitioner intends to return to Florida and live with family.

On or about January 13, 2026, Petitioner was arrested in Las Vegas following a domestic incident involving his partner. Petitioner was visiting Las Vegas with his partner and their child. Petitioner entered a plea and received a suspended sentence requiring counseling and community service, after which the conviction would be dismissed. Petitioner was initially held in state custody before being transferred to immigration custody on January 14, 2026.[4]

Petitioner had an initial bond hearing before the Las Vegas Immigration Court on March 2, 2026, having submitted an initial request for bond received by the court on February 22, 2026.[5] Petitioner appeared pro se. The Immigration Judge asked Petitioner where he would live if released, who he would live with, whether he had employment, and what evidence would show that he would appear for future hearings. Petitioner explained that he intended to live with family in Florida and that he had family members available to support him. Petitioner also identified a proposed witness, but the witness was not available on the line.[6]

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[2] Ex. 1.

[3] *Id.*

[4] *Id.*

[5] Ex. 2.

[6] Ex. 3 (manually filed with the Court).

The Immigration Judge told Petitioner that the court needed evidence beyond Petitioner's own statements, including an address, contact information, letters from relatives or sponsors, employment information, and evidence showing why the court could believe Petitioner would appear for future hearings. The Immigration Judge instructed Petitioner that he would need to write to the court and ask for a new bond hearing. Petitioner then withdrew his bond request so that he could submit the evidence the Immigration Judge requested and refile.[7]

Petitioner did what the Immigration Judge instructed him to do and filed a second bond request on March 23, 2026.[8] Petitioner submitted materials to the immigration court, including address, sponsor, and employment information. His certificate of service identified the filing as relating to bond and stated, in the name of document, "bond hearing please."[9] Petitioner submitted those materials by hand delivery and served opposing counsel.[10] Petitioner understood those materials to be for bond.

On March 27, 2026, the immigration court proceeded with Petitioner's merits hearing. Petitioner again appeared pro se. During the hearing, government counsel asked Petitioner why he had not called witnesses or submitted corroborating evidence. Petitioner responded by discussing the letters he had sent to the court after the Immigration Judge told him to submit letters regarding his work and his family sponsor. Petitioner's answer reflected that he was referring to the bond evidence the Immigration Judge had asked him to provide, not merits evidence for asylum, withholding, or CAT protection.[11]

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[7] *Id.*

[8] Ex. 4.

[9] *Id.*

[10] *Id.*

[11] Ex. 5 (manually filed with the Court).

The Immigration Judge initially stated that, if Petitioner had mailed supporting materials only a few days earlier and the court had not received them, the hearing might need to be continued.[12] The court then had the clerk check the mail. The clerk located Petitioner's second bond submission, and the court admitted the letters into evidence during the merits hearing.[13]

The immigration judge and the government then treated Petitioner's bond materials as merits evidence. Government counsel argued that the submission did not corroborate Petitioner's claimed persecution and noted that the letters appeared to be more in support of bond. The Immigration Judge likewise observed that the letters were "more like bond letters" and did not mention persecution or harm in Cuba. The Immigration Judge relied, at least in part, on the absence of corroboration in denying relief and ordering Petitioner removed to Cuba.[14]

The immigration court did not hold a bond hearing on March 27, 2026.[15] It did not issue a custody redetermination. It did not adjudicate whether Petitioner posed a danger or flight risk, whether conditions could reasonably secure his appearance, or whether Petitioner should be released under § 1226(a). Although Petitioner requested a bond hearing and submitted the materials the Immigration Judge instructed him to provide, his request for custody redetermination was never adjudicated.

After the Immigration Judge ordered Petitioner removed on March 27, 2026, Petitioner began a hunger strike on or about March 29, 2026.[16] Petitioner began the hunger strike to protest the Immigration Judge's removal order.

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[12] *Id.*

[13] *Id.*; *see also* Ex. 4 (marked by immigration court as "Exh. 6").

[14] Ex. 5.

[15] *Id.*

[16] Ex. 6 (filed under seal).

Medical records reflect that Petitioner's last meal was on or about March 29, 2026, and that he stopped drinking water or other fluids on or about April 1, 2026. By April 2, medical staff documented that Petitioner was severely dehydrated, felt weak and dizzy, had leg cramps and dry mouth, and was unable to stand. Medical staff advised Petitioner that he might not survive another 24 to 36 hours without fluids. The same progress note reflects that medical supervisors were working with ICE to obtain a court order for forced feeding or medical intervention due to the severity of Petitioner's dehydration.[17]

During this period, facility records also reflect that Respondents imposed restrictions on Petitioner's conditions in medical observation. On April 3, after Petitioner became upset that his mattress had been taken away, a facility staff member told him that if he ate a small amount of food or drank a nutritional supplement, he could get his mattress back.[18]

Respondents were also aware that Petitioner had an imminent legal deadline. In a progress note dated April 14, 2026, an officer told medical staff that Petitioner had a court-related deadline, with appeal documentation due no later than April 27, and recommended that ICE DO staff communicate directly with Petitioner.[19]

On April 17, ICE representatives and two of Petitioner's friends were brought in to speak with him. The progress note indicates that Petitioner reported they encouraged him to eat and complete his appeal paperwork.[20] Petitioner began completing his appeal paperwork on or about April 17, the same day the hunger strike ended.[21]

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[17] *Id.*

[18] Ex. 7 (filed under seal).

[19] Ex. 8 (filed under seal).

[20] Ex. 9 (filed under seal).

[21] Ex. 10; *see also* Ex. 11 (filed under seal).

After Petitioner resumed eating, he required further medical evaluation. On April 21, medical records reflect that that Petitioner had been on a hunger strike for approximately 16 days and had begun eating again four days earlier. Medical staff assessed him for possible refeeding-related concerns.[22]

Petitioner remains detained at Nevada Southern Detention Center. He has not received a custody redetermination under § 1226(a) since submitting the bond materials the Immigration Judge instructed him to provide. He remains separated from his family, unable to return to his proposed residence in Florida, and unable to work or support his family while his custody request remains unadjudicated.

GROUNDS FOR RELIEF

I. Ground One: Respondents violated Petitioner's Fifth Amendment right to procedural due process because they continue to detain Petitioner, a *Jacobo-Ramirez* class member, without the § 1226(a) bond process he requested and was entitled to receive.

A. Petitioner is a *Jacobo-Ramirez* class member governed by § 1226(a).

In *Jacobo-Ramirez*, the court rejected Respondents' policy of treating noncitizens arrested in the interior, but alleged to have entered without inspection, as subject to mandatory detention under § 1225(b)(2)(A). *Jacobo-Ramirez v. Mullin*, No. 2:25-cv-02136-RFB-MDC, 2026 U.S. Dist. LEXIS 67643, at *3–6, *33–35 (D. Nev. Mar. 30, 2026). The court certified a class of:

"All noncitizens in the U.S. without lawful status (1) who are or will be arrested or detained by ICE; (2) who are or will be in removal proceedings before an Immigration Court within the District of Nevada; (3) whom DHS alleges or will allege to have entered the United States without inspection or parole; (4) who are not or will not be subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time they are scheduled for or request a bond hearing; and (5) whose most recent arrest by

[22] Ex. 11 (filed under seal).

ICE occurred inside the United States and not while arriving in the United States." *Id.* at *12–13.

Petitioner falls squarely within the *Jacobo-Ramirez* class. He is a noncitizen detained by ICE at Nevada Southern Detention Center. He is in removal proceedings before the Las Vegas Immigration Court, within the District of Nevada. DHS alleges that he entered the United States without inspection or parole. His most recent ICE detention occurred inside the United States, after a state arrest in Las Vegas, not while he was arriving at the border. At the time he requested a bond hearing, he was not subject to § 1225(b)(1), § 1226(c), or § 1231. He was in ongoing removal proceedings, and he requested custody process before any final administrative order could trigger § 1231. Nor has DHS identified any mandatory-detention provision under § 1226(c) that applies to him.

Because Petitioner is a *Jacobo-Ramirez* class member, he was entitled to the custody process provided by § 1226(a) and its implementing regulations, including a meaningful opportunity to seek release on bond or conditional parole before an immigration judge. Respondents' continued detention of Petitioner without that lawful custody process violates the INA, the governing regulations, and the classwide declaratory judgment and vacatur entered in *Jacobo-Ramirez*.

Petitioner was deprived of that process, and therefore his ongoing detention is unlawful. Petitioner requested a bond hearing. After the Immigration Judge instructed him to submit address, sponsor, and employment information in support of bond, Petitioner did so. But the immigration court did not conduct a bond hearing or issue a custody redetermination. Instead, the record indicates that the filing was erroneously treated as part of the merits proceedings rather than as a custody request. Thus, despite falling squarely within the *Jacobo-Ramirez* class, Petitioner remains detained without the bond process that § 1226(a) requires.

B. The immigration court violated § 1003.19 and due process by failing to adjudicate Petitioner's bond request and treating his custody filing as merits evidence.

Under § 1226(a) and its implementing regulations, a detained noncitizen may seek custody redetermination before an immigration judge. 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d), 1236.1(d), 1003.19. That custody process is distinct from the removal proceeding itself. The regulations provide that "[c]onsideration by the Immigration Judge of an application or request of a respondent regarding custody or bond . . . shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding." 8 C.F.R. § 1003.19(d). The Ninth Circuit has enforced that separation, explaining that bond proceedings and removal proceedings serve different purposes and are governed by different procedural protections. *Joseph v. Holder*, 600 F.3d 1235, 1241–42 (9th Cir. 2010) (holding that IJ erred by relying on bond hearing notes in removal proceeding because 8 C.F.R. § 1003.19(d) requires custody and bond determinations to remain "separate and apart" from removal proceedings).

That separation matters here because Petitioner did not merely fail to receive a favorable bond decision. He did not receive a bond decision at all. At the March 2 bond hearing, the Immigration Judge instructed Petitioner to submit address, sponsor, employment, and appearance-related information in support of bond. Petitioner followed that instruction. He submitted the requested materials, and his submission made clear that he was seeking a bond hearing. The immigration court received the filing. But the court never held a bond hearing, never issued a custody redetermination, and never adjudicated Petitioner's request for release.

Instead, the record indicates that the immigration court treated Petitioner's bond submission as part of the removal merits record. At the March 27 hearing, the Immigration Judge initially recognized that if Petitioner's supporting materials had not arrived, the merits hearing might need to be continued. After the clerk located

the materials, the court admitted them and proceeded with the merits hearing. But those materials were the address, sponsor, and employment documents Petitioner had submitted because the Immigration Judge told him they were necessary for bond. The government and the Immigration Judge then treated the documents as insufficient corroboration of Petitioner's fear-based claims because they were "more like bond letters."

To be clear, Petitioner does not ask this Court to review the removal order, reconsider the denial of asylum, or decide whether the Immigration Judge correctly assessed corroboration in the merits proceeding. However, the March 27 hearing shows that Petitioner's request for custody redetermination was diverted from the process required by § 1003.19 and never adjudicated. The immigration court received a bond filing, used it in the removal proceeding, and left Petitioner without any custody redetermination.

That procedure violated both the regulations and due process. Section 1003.19 required the immigration court to treat Petitioner's custody request as separate from the removal proceeding. Due process required a meaningful opportunity to be heard on the legality of continued detention. Petitioner received neither. He was entitled to an immigration-judge custody redetermination under § 1226(a), especially as a *Jacobo-Ramirez* class member.

C. Under *Mathews v. Eldridge*, Petitioner's detention without adjudication of his requested custody redetermination violates due process.

To determine whether civil detention violates procedural due process, courts apply the three-part balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Courts in this District have repeatedly applied the *Mathews* framework in evaluating immigration detention claims. *See De Leon v. Mayorkas*, No. 2:23-cv-02073-GMN-VCF, 2024 WL 343437 (D. Nev. Jan. 29, 2024); *Ortiz-Castillo v. United States*, No. 2:23-cv-01485-RFB-MDC, 2024 WL 756075 (D. Nev. Feb. 23, 2024);

Arechiga v. Archambeault, No. 2:23-cv-00600-CDS-VCF, 2023 WL 5207589 (D. Nev. Aug. 11, 2023). Under *Mathews*, courts consider: (1) the private interest affected by the official action; (2) the risk of erroneous deprivation through the procedures used and the probable value of additional safeguards; and (3) the government's interest, including the administrative burden of additional procedures. *Mathews*, 424 U.S. at 334–35.

1. The Private Interest

The private interest at stake here is Petitioner's freedom from detention. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). "One of the most elemental liberty interests is the interest in being free from detention." *Meza v. Lewis*, No. 4:25-CV-171-RGJ, 2026 WL 92102, at *11 (W.D. Ky. Jan. 13, 2026) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)).

Petitioner's liberty interest is substantial. Petitioner was previously released from immigration custody on his own recognizance and was living in the community while his removal proceedings remained pending. He was later re-detained after an interior arrest in Las Vegas, not while seeking admission at the border. As a *Jacobo-Ramirez* class member, his detention is governed by § 1226(a), which provides for individualized custody review and release on bond or conditional parole. Petitioner also has family ties in the United States, including a United States citizen child, and other family members lawfully in the United States that he intends to live with. As a result of his detention, Petitioner has been unable to return to his family, work, or pursue his immigration case from the community. Accordingly, the first *Mathews* factor weighs strongly in Petitioner's favor.

2. The Risk of Error

The second *Mathews* factor also weighs in Petitioner's favor because there is a significant risk that he has been erroneously deprived of his liberty. Detention

without any individualized custody adjudication creates a high risk of erroneous deprivation. *See Meza*, 2026 WL 92102, at *11.

Here, Petitioner was entitled to § 1226(a) custody process, and he affirmatively requested that process. At the March 2 bond hearing, the Immigration Judge instructed Petitioner to submit address, sponsor, employment, and appearance-related information in support of bond. Petitioner did what the Immigration Judge instructed him to do. He submitted the requested materials, and the immigration court received them. But the immigration court did not conduct a bond hearing, issue a custody redetermination, or otherwise adjudicate Petitioner's request for release.

The risk of error is especially high because the record indicates that Petitioner's custody filing was treated as part of the removal merits proceeding rather than adjudicated as a bond request. Petitioner was unrepresented, submitted the materials after the Immigration Judge told him what was needed for bond, and reasonably understood that he was seeking a bond hearing. Yet the court used the submission in the merits proceeding and left Petitioner without a decision on custody.

Petitioner therefore had no individualized evaluation of whether he presented a danger or flight risk, no consideration of whether conditions could reasonably secure his appearance, and no custody decision to appeal. These facts demonstrate a substantial risk of erroneous deprivation and a correspondingly high value in safeguards that ensure any custody hearing is meaningful, including the proper burden of proof, and consideration of alternatives to detention.

3. The Government's Interest

The third *Mathews* factor also weighs in Petitioner's favor. Although the government has an interest in enforcing immigration laws and ensuring compliance with removal proceedings, the relevant interest here is the government's ability to detain Petitioner without adjudicating the custody redetermination he requested and to which he was entitled under § 1226(a). Courts have consistently recognized that

the burden of providing an individualized custody determination is minimal because such procedures already exist and are routinely conducted. *See Singh v. Garland*, No. 1:23-CV-01043-EPG-HC, 2023 WL 5836048, at *6 (E.D. Cal. Sept. 8, 2023); *Henriquez v. Garland*, No. 5:22-cv-00869-EJD, 2022 WL 2132919, at *5 (N.D. Cal. June 14, 2022).

Providing Petitioner with adjudication of his requested custody redetermination would impose only minimal administrative burden while substantially reducing the risk of erroneous deprivation of liberty. Indeed, the burden is particularly low here because Petitioner already requested the bond process, submitted the information the Immigration Judge requested, and placed the issue before the immigration court. The government has no legitimate interest in continuing to detain a *Jacobo-Ramirez* class member without adjudicating his request for release under § 1226(a). Accordingly, the third *Mathews* factor weighs in Petitioner's favor.

D. Release is the appropriate remedy; in the alternative, any bond hearing must include safeguards sufficient to cure the due process violation.

The appropriate remedy is immediate release. Federal courts have broad authority in habeas to fashion relief as law and justice require. *Sanders v. Ratelle*, 21 F.3d 1446, 1461 (9th Cir. 1994); *United States v. Handa*, 122 F.3d 690, 691 (9th Cir. 1997). Where continued detention violates the Constitution or laws of the United States, habeas relief need not be limited to a post hoc hearing that permits the government to justify detention after the violation has already occurred.

Immediate release is warranted here because Petitioner's injury is ongoing. Petitioner is a *Jacobo-Ramirez* class member, § 1226(a) governs his detention, and he requested the immigration-judge custody redetermination that § 1226(a) and its implementing regulations provide. Yet the immigration court never adjudicated that request. Petitioner therefore remains detained without the custody process to which

he was entitled. This is not a prospective or technical violation. It is a present deprivation of physical liberty without the individualized custody adjudication required by law. *See Partovi v. Bondi*, No. 2:25-cv-02283-JAD-DJA, 2026 U.S. Dist. LEXIS 5835, at *11 (D. Nev. Jan. 13, 2026) (finding irreparable harm where petitioner was "currently suffering irreparable harm by the fact of his continued, likely unlawful detention" and "will continue to suffer irreparable harm if he is not released from custody").

Courts in this District have ordered immediate release where Respondents continued to detain a *Jacobo-Ramirez* class member without the procedural protections required by § 1226(a). *Melendez Paz v. Mullin*, No. 2:26-cv-00296-RFB-MDC, 2026 U.S. Dist. LEXIS 96025, at *18–23 (D. Nev. May 1, 2026). That remedy is appropriate here for the same reason. Petitioner is not asking the Court to reweigh a discretionary bond denial. There was no bond denial to review. The immigration court received Petitioner's bond submission but never adjudicated it as a custody request. Immediate release is therefore necessary to remedy the unlawful detention already occurring and to enforce the custody process required for *Jacobo-Ramirez* class members under § 1226(a).

If the Court declines to order immediate release, it should order Respondents to provide a prompt constitutionally adequate bond hearing, with release required if the hearing is not timely held. Any such hearing must include safeguards sufficient to cure the violation, including requiring Respondents to prove by clear and convincing evidence that continued detention is justified and requiring the Immigration Judge to consider whether conditions of release can reasonably address any asserted risk of flight or danger.

Respondents may argue that, under the ordinary § 1226(a) framework, the noncitizen bears the burden of proving eligibility for release by a preponderance of the evidence. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1200–09 (9th Cir. 2022).

But this is not an ordinary § 1226(a) case. In *Rodriguez Diaz*, the petitioner had received custody process, including a bond hearing, and challenged whether due process required the government to bear the burden at a later hearing during prolonged detention. *Id.* at 1195–96, 1206–09. Here, Petitioner requested an immigration-judge custody redetermination and did not receive an adjudication of that request at all. The risk of erroneous deprivation is therefore materially different: Petitioner remains detained not because an immigration judge made an adverse custody finding, but because no immigration judge ever adjudicated the bond request he submitted.

Nor do cases applying the ordinary burden allocation after ordering a § 1226(a) hearing control this case. In *Antunez-Pichardo v. Blanche*, this Court relied on *Rodriguez Diaz* in declining to shift the burden where the petitioner had already received a bond hearing and challenged the adequacy of the procedures used there. No. 2:26-cv-00275-APG-BNW, 2026 U.S. Dist. LEXIS 105291, at *13–16 (D. Nev. May 13, 2026). Likewise, in *Salinas v. Mattos*, the court ordered an individualized bond hearing under § 1226(a) but applied the ordinary preponderance standard. No. 2:26-cv-00313-APG-NJK, 2026 U.S. Dist. LEXIS 101229, at *15–16 (D. Nev. May 6, 2026). Those cases did not involve a *Jacobo-Ramirez* class member who requested bond, submitted the materials the Immigration Judge instructed him to provide, and then had that custody request left unadjudicated while the filing was treated as merits evidence in the removal proceeding.

Thus, the ordinary procedures have already failed at the threshold. A bond hearing that simply resets the matter under ordinary rules would not fully account for the risk of error created by the immigration court's failure to adjudicate Petitioner's request in the first place. At minimum, due process requires a hearing that meaningfully protects against continued erroneous detention, including by placing the burden on Respondents to justify continued custody by clear and

convincing evidence, requiring individualized findings on danger and flight risk, and requiring consideration of reasonable alternatives to detention.

Accordingly, this Court should order Petitioner's immediate release. In the alternative, the Court should order Respondents to provide a prompt constitutionally adequate bond hearing at which Respondents bear the burden of proving by clear and convincing evidence that continued detention is justified, and direct that Petitioner be released if such a hearing is not timely held.

II. Ground Two: Respondents violated the Fifth Amendment by subjecting Petitioner to punitive and coercive conditions during his hunger strike.

Civil immigration detainees may not be subjected to punitive conditions of confinement. A civil detainee's confinement violates the Fifth Amendment when the conditions "amount to punishment." *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004). Punitive conditions may be shown where restrictions are expressly intended to punish, or where they serve a nonpunitive purpose but are excessive in relation to that purpose or are employed to achieve objectives that could be accomplished through alternative and less harsh means. *Jones*, 393 F.3d at 932. That standard applies in immigration detention. *Rosas v. Becerra*, No. 23-cv-04058-LB, 2023 U.S. Dist. LEXIS 181182, at *9–10 (N.D. Cal. Oct. 6, 2023).

Here, after the Immigration Judge ordered Petitioner removed on March 27, 2026, Petitioner began a hunger strike on March 30, 2026. During that same period, medical records reflect that Petitioner's hunger strike created serious medical concerns, including refusal of water, emergency medical evaluation, and later refeeding-related concerns. Petitioner's appeal was not marked received by the Board of Immigration Appeals until April 27, 2026, the deadline for filing the notice of appeal. That timing corroborates Petitioner's account that access to appeal paperwork was delayed during the same period when he was medically vulnerable

from the hunger strike. Facility records also show that Respondents used other restrictions as leverage to end the hunger strike. On April 3, after Petitioner became upset that his mattress had been taken away, facility staff told him that if he ate a small amount of food or drank a nutritional supplement, he could get his mattress back. That restriction supports the inference that Respondents were not merely monitoring Petitioner for medical safety, but were conditioning basic confinement conditions on his agreement to eat.

To the extent Respondents contend that actions taken during the hunger strike were justified by a legitimate interest in preserving Petitioner's health and life, even a legitimate medical objective does not permit restrictions that are excessive in relation to that purpose or that use unnecessarily harsh means to accomplish it. *See Jones*, 393 F.3d at 932. If Respondents believed Petitioner's hunger strike required intervention, the appropriate response was medical monitoring, treatment, and, if necessary, judicial authorization for involuntary medical intervention. *See Ex parte Prins*, No. 3:24-mc-05006-TMC, 2024 U.S. Dist. LEXIS 95521, at *2–6 (W.D. Wash. May 29, 2024) (addressing ICE's request for court authorization to conduct involuntary medical monitoring, testing, examinations, and hydration for a hunger-striking immigration detainee). It was not constitutionally permissible to condition access to appeal paperwork on Petitioner's agreement to eat.

Withholding or delaying legal paperwork necessary to preserve appellate rights, and conditioning the return of basic bedding on Petitioner's agreement to eat, does not serve the asserted medical objective in a lawful way. It uses a civil detainee's medical vulnerability as leverage. It uses a civil detainee's medical vulnerability as leverage. On Petitioner's allegations, Respondents did not merely encourage him to resume eating or drinking; they conditioned access to the paperwork needed to pursue administrative review on his compliance with their demand that he eat. Such a

condition was arbitrary, excessive, and punitive in relation to any legitimate medical or detention-management purpose.

Because punitive civil immigration detention violates the Fifth Amendment, habeas relief, including release, may be appropriate where the challenged conduct renders custody unlawful. *See Tavurov v. Noem*, No. 2:26-cv-00138-TLF, 2026 U.S. Dist. LEXIS 25425, at *23–27 (W.D. Wash. Feb. 6, 2026) (distinguishing ordinary conditions claims from punitive civil immigration detention, which violates due process and may support habeas relief, including release).[23]

Dated June 3, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Jennifer Joseph
Jennifer Joseph
Assistant Federal Public Defender

[23] Petitioner intends to file a motion for limited discovery concerning this claim, including internal ICE and facility communications regarding Petitioner's hunger strike and appeal paperwork; records concerning his housing, infirmary placement, observation status, and related restrictions; incident reports; legal material requests; any records reflecting when appeal paperwork was requested, provided, delayed, withheld, or discussed; and records reflecting the basis for any restriction on Petitioner's mattress, pillow, bedding, writing materials, legal materials, or other personal property during the hunger strike. Petitioner respectfully reserves the right to amend or supplement this claim after receiving discovery.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on June 3, 2026. I personally served a true and correct copy of the foregoing First Amended Petition for Writ of Habeas Corpusby CM/ECF to the following individuals:

Ashlee Hesman Struck Love Acedo, PLC 3100 West Ray Road, Suite 300 Chandler, AZ 85226 Email: ahesman@strucklove.com *Attorney for John Mattos*	Tamer Botros Botros Virginia T. Tomova U.S. Attorney's Office for District of NV 501 Las Vegas Blvd S Suite 1100 Las Vegas, NV 89101 Email: tamer.botros@usdoj.gov Email: Virginia.Tomova@usdoj.gov *Attorneys for Interested Party, United States Attorneys' Office for the District of Nevada and Federal Respondents*

I further certify that some of the participants in the case are not registered electronic filing system users. The foregoing documents will be mailed by First-Class Mail, postage pre-paid, or dispatched to a third party commercial carrier for delivery within three calendar days, to the following person:

Manuel Garcia Ugalde Nevada Southern Detention Center 2190 E. Mesquite Avenue Pahrump, NV 89060	

/s/ Lisa Keller

An Employee of the
Federal Public Defender