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9
10 UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF ARIZONA
12

13 A.M.A.S.,

14 Petitioner,

15 v.

16 John Cantu, Field Office Director of
17 Enforcement and Removal Operations,
18 Phoenix Field Office, Immigration and
19 Customs Enforcement;

20 Luis Rosa Jr., in his official capacity,
21 Warden at Florence Service Processing
22 Center;

23 Markwayne Mullin, in his official capacity,
24 Secretary of the Department of Homeland
25 Security;

26 Todd M. Lyons, in his official capacity,
27 Acting Director for U.S. Immigration and
28 Customs Enforcement; and

Todd Blanche, in his official capacity,
Acting Attorney General of the United
States.

Respondents-Defendants

Case No.:

**PETITION FOR WRIT OF
HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS
A.M.A.S. v. Warden, et al.

INTRODUCTION

1
2 1. Petitioner, A.M.A.S. (Petitioner), is a native and citizen of Egypt who was
3 admitted to the United States on or about November 25, 1998 as an R-2 (child of religious
4 worker) nonimmigrant for a temporary period. Exhibit (Ex.) A, Notice to Appear (NTA).
5 On February 5, 2021, Petitioner became a Lawful Permanent Resident (LPR) of the United
6 States. Ex. B, Lawful Permanent Resident Card.

7
8 2. On January 3, 2024, Petitioner was placed in removal proceedings pursuant
9 to an NTA alleging that Petitioner was removable pursuant to INA § 237(a)(2)(B)(i),
10 U.S.C. § 1227(a)(2)(B)(i), as having violated a law or regulation relating to a controlled
11 substance, and INA § 237(a)(2)(A)(ii), 8. U.S.C. § 1227(a)(2)(A)(ii), as having been
12 convicted of two crimes involving moral turpitude (CIMT) not arising out of a single
13 schedule of criminal misconduct. Ex. A, NTA.

14
15
16 3. On August 26, 2024, Petitioner applied for deferral of removal under the
17 Convention Against Torture (CAT) [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

18
19 [REDACTED]. Following a merits
20 hearing on October 1, 2025, the Immigration Judge granted Petitioner's application for
21 CAT protection, finding that there was a "clear probability" that Petitioner faced torture
22 in Egypt [REDACTED]: " [REDACTED]

23
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED],
28

1 committed by the government of that country.” *Id.* Ex. C, Immigration Judge’s Written
2 Decision.

3 4. The parties were afforded thirty (30) days to file a notice of appeal of the IJ’s
4 decision to the Board of Immigration Appeals (BIA), requiring the Department of
5 Homeland Security (DHS) to do so by November 1, 2025. *Id.* The DHS did not file an
6 appeal, but Petitioner has remained in ICE detention.
7

8 5. On October 17, 2025, Petitioner was transferred from Lewis Prison Complex
9 to immigration detention at Florence Service Processing Center and then to Central
10 Arizona Florence Correctional Center (CAFCC) in Florence, Arizona. Ex. D, Declaration
11 from Petitioner. Around 60 days later, Respondents unexpectedly transferred Petitioner
12 from CAFCC to Imperial Regional Detention Facility in Calexico, California, until on or
13 from CAFCC to Imperial Regional Detention Facility in Calexico, California, until on or
14 about April 23, 2026, when he was moved to the Florence Service Processing Center in
15 Florence, Arizona.
16

17 6. On April 15, 2026, the six month presumptively reasonable period of
18 detention will be complete and continued detention beyond that date violates 8 U.S.C. §
19 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678
20 (2001), because Petitioner’s removal is not reasonably foreseeable.
21

22 7. Furthermore, Petitioner’s prolonged detention violates the Fifth
23 Amendment’s guarantee of substantive due process. Civil detention is unconstitutionally
24 punitive if it is “‘excessive in relation to [its non-punitive] purpose,’ or is ‘employed to
25 achieve objectives that could be accomplished in so many alternative and less harsh
26 methods[.]’” *Jones v. Blanas*, 393 F.3d 918, 934 (9th Cir. 2004) (internal citations
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28

omitted). Petitioner's prolonged detention for six months, under conditions worse than criminal incarceration, has become punitive. No neutral adjudicator has ever evaluated whether Petitioner is a flight risk or danger to the community.

8. Moreover, in Petitioner's proceedings in which he was granted CAT protection, Egypt was the only country designated for removal, yet for the full six months of Petitioner's detention DHS failed to notice Petitioner of its intention to effectuate his removal any third country.

9. On April 3, 2026, a DHS official mentioned to Petitioner that they were exploring the possibility remove him to Cameroon or Guinea, both countries in which homosexuality is illegal, the punishment for which is imprisonment, and LGBTQ+ individuals are routinely subjected to arbitrary arrest and violence.^{1 2}

10. Petitioner, through counsel, has notified DHS officials that Petitioner maintains a fear of removal to any and all countries contemplated for removal. Exh. F. Petitioner has requested that if the government intends to remove him to a third country,

¹ In Cameroon, "[c]onsensual same-sex sexual activity between adults was illegal and punishable with imprisonment from six months to five years plus a fine ... Police often detained LGBTQI+ individuals based solely on their perceived sexual orientation, gender identity, or gender expression, including individuals who had sought police assistance after being the victims of violent crimes." U.S. Dep't of State, Cameroon 2023 Human Rights Report <https://www.state.gov/wp-content/uploads/2024/02/528267-CAMEROON-2023-HUMAN-RIGHTS-REPORT.pdf>; See also Advocates for Human Rights, *Cameroon's Compliance with Convention Against Torture* ("Police continue to arbitrarily arrest, harass, and threaten members of the LGBTQI+ community" with impunity, and they condone or participate in manhunts, group attacks, and physical and sexual violence against LGBTQ+ people by non-State actors.) <https://www.theadvocatesforhumanrights.org/Res/TAHR%20AC%20Cameroon%20CAT%20LGBTIQ%20FINAL.pdf>

² In Guinea, "[t]he law criminalized consensual same-sex sexual conduct between adults, which was punishable by three years in prison [and] ...LGBTQI+ persons faced arbitrary arrest, violence, and harassment by security forces who accused them of disrupting the social order.") U.S. Dep't of State, Guinea 2023 Human Rights Report <https://www.state.gov/wp-content/uploads/2024/02/528267-GUINEA-2023-HUMAN-RIGHTS-REPORT.pdf>; See also The Advocates for Human Rights, *Guinea: Joint Stakeholder Report for the United Nations Universal Periodic Review: LGBT+ Rights* ("LGBT+ individuals in Guinea live in a hostile, and sometimes deadly, environment, facing threats of physical violence, persecution, and discrimination based on sexual orientation, gender identity, and gender expression.") https://www.theadvocatesforhumanrights.org/Res/2024%20UPR%20Guinea_LGBT%20Final.pdf

1 he be provided with written notice of the government's intention, evidence of any
2 diplomatic assurances from such country, and access to a fear screening interview to any
3 such country. Id.

4
5 11. Even if this Court did find that Petitioner posed some degree of flight risk,
6 his continued physical custody is excessive in relation to any risk he poses because
7 appropriate conditions of release can successfully mitigate any such risk. Accordingly,
8 this Court should issue a writ of habeas corpus and order Petitioner's release.
9

10 JURISDICTION

11 12. Petitioner is currently detained at the at Florence Correctional Center in
12 Florence, AZ. Prior to December 2025, Petitioner was detained at Central Arizona
13 Florence Correctional Center for around two months.
14

15 13. Jurisdiction is proper over a writ of habeas corpus pursuant to Art. 1 § 9, cl.
16 2 of the United States Constitution (the Suspension Clause); 28 U.S.C. § 2241 (habeas
17 corpus); and 28 U.S.C. § 1331 (federal question).
18

19 14. This action arises under the Due Process Clause of the Fifth Amendment of
20 the United States Constitution. This Court may grant relief under the habeas corpus
21 statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.,
22 and the All Writs Act, 28 U.S.C. § 1651. This Court also has broad equitable powers to
23 grant relief to remedy a constitutional violation. *See Roman v. Wolf*, 977 F.3d 935, 941
24 (9th Cir. 2000).
25
26

27 15. Congress has preserved judicial review of challenges to prolonged
28 immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding

1 that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar review of legal challenges to prolonged
2 immigration detention).

3 VENUE

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5 16. Venue is proper in this district under 28 U.S.C. § 1391 because at least one
6 Respondent resides in this district and because Petitioner is presently detained under the
7 authority of the Director of the Phoenix ICE Field Office. The Florence Correctional
8 Center is an ICE-run facility within the district. The Phoenix Field Office of ICE ERO is
9 responsible for carrying out ICE's detention operations at the Florene Correctional Center
10 and for adjudicating requests for release from those detained there.
11

12 PARTIES

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14 17. Petitioner is currently detained by Respondents. He has been detained since
15 November 17, 2025, without any meaningfully individualized and independent inquiry
16 into ICE's justification for his ongoing detention. In the instant petition, he challenges his
17 "present physical confinement." *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024).
18

19 18. Respondent John Cantu is the Field Office Director for the Phoenix Field
20 Office of ICE ERO. Mr. Cantu resides in this district for venue purposes because his
21 official duties are performed in this district. Mr. Cantu is the local ICE official with legal
22 custody of Petitioner. He is named in his official capacity.
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24 19. Respondent Luis Rosa, Jr. is the warden at the Florence Correctional Center.
25 As warden of the detention center in which Petitioner is confined, Warden is Petitioner's
26 immediate custodian. He is named in his official capacity.
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15 resulted in an addiction to substances, which ultimately led him to prison. *Id.*

16 27. On October 26, 2023, Petitioner was convicted of Aggravated Assault and
17 Possession of a Synthetic Narcotic and sentenced to two-and-a-half (2.5) years
18 imprisonment and two (2) years' probation.
19

20 28. On January 3, 2024, Petitioner was placed in removal proceedings pursuant
21 to an NTA alleging that Petitioner was removable pursuant to INA § 237(a)(2)(B)(i), 8
22 U.S.C. § 1227(a)(2)(B)(i), as having violated a law or regulation relating to a controlled
23 substance, and INA § 237(a)(2)(A)(ii), 8. U.S.C. § 1227(a)(2)(A)(ii), as having been
24 convicted of two crimes involving moral turpitude (CIMT) not arising out of a single
25 schedule of criminal misconduct. Ex. A, NTA.
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1 29. On August 26, 2024, Petitioner applied for deferral of removal under the
2 Convention Against Torture (CAT) [REDACTED]
3 [REDACTED]. Following a merits hearing on October
4 1, 2025, the Immigration Judge granted Petitioner's application for CAT protection,
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]: " [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]." *Id.* Ex. C, Immigration Judge's Written Decision.

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14 30. The parties were afforded thirty (30) days to file a notice of appeal of the IJ's
15 decision to the Board of Immigration Appeals (BIA), requiring the Department of
16 Homeland Security (DHS) to do so by November 1, 2025. *Id.* The DHS did not file an
17 appeal, but Petitioner remained in ICE detention.
18

19 31. On October 17, 2025, Petitioner was transferred from Lewis Prison Complex
20 to immigration detention at Florence Service Processing Center and then to Central
21 Arizona Florence Correctional Center (CAFCC) in Florence, Arizona. Ex. D, Declaration
22 from Petitioner. Around 60 days later, Respondents unexpectedly transferred Petitioner
23 from CAFCC to Imperial Regional Detention Facility in Calexico, California. On or about
24 April 23, 2026, Petitioner was again unexpectedly transferred to an ICE facility in
25 Florence, Arizona.
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1 32. Petitioner spent more than two months detained at the Central Arizona
2 Florence Correctional Center (CAFCC). CAFCC is an immigration detention center
3 owned and operated for profit by CoreCivic in Eloy, Arizona. For years, rights groups
4 have documented abuse, medical neglect, and deaths of detainees at CAFCC, which at
5 times exceeds its capacity by over 100 people.³
6

7 33. However, Petitioner describes Imperial Regional Detention Facility, to
8 which he was transferred in December 2025, as “one of the worst places I’ve ever seen.”
9
10 Ex. D, Declaration of Petitioner. He describes vicious verbal abuse, physical abuse, and
11 using threats and intimidation, including the threat of deportation, to coerce detainees into
12 working in the detention center without pay. *Id.* Indeed, Imperial Regional Detention
13 Facility has been the subject of lawsuits and reports of neglect, abuse, and detainee deaths
14 for years.⁴ Petitioner has not reported on his current conditions in the Florence Service
15 Processing Center, as he has been there for approximately 24 hours.
16

17 34. DHS and ICE have civilly incarcerated Petitioner for nearly six months and
18 counting, even though he has served his time for his criminal convictions in the United
19 States and has no incentive to flee, having been granted protection under the Convention
20 Against Torture.
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27 ³ See, e.g. Cruel and Deadly: Another Life Tragically Lost to Immigration Detention.

28 ⁴ See, e.g. Complaint Filed Over Noxious Air, Contaminated Water, Toxic Dust, and Mold Causing Serious Health Complications at Imperial Regional Detention Center; ‘These spaces are often stressful.’ Questions raised after another death in Imperial County; ICE detainees in Imperial County allege negligent medical care, other abuses.

1 35. Accordingly, absent intervention by this Court, Petitioner will remain
2 unlawfully detained in alarming conditions for the indefinite future. It is for this reason
3 that he seeks relief from this Court via the instant habeas petition.

4
5 **LEGAL FRAMEWORK**

6 36. Civil immigration detention is limited by both substantive and procedural
7 due process.

8 37. 8 U.S.C. § 1231 governs the detention of non-citizens “during” and “beyond”
9 the “removal period.” 8 U.S.C. § 1231(a)(2)-(6). The “removal period” begins once a
10 noncitizen’s removal order “becomes administratively final.” 8 U.S.C. § 1231(a)(1)(B).
11 The removal period lasts for 90 days, during which ICE “shall remove the [noncitizen]
12 from the United States” and “shall detain the [noncitizen]” as it carries out the removal. 8
13 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the noncitizen within the 90-day removal
14 period, the noncitizen “may be detained beyond the removal period” if they meet certain
15 criteria, such as being inadmissible or deportable under specified statutory categories. 8
16 U.S.C. § 1231(a)(6) (emphasis added).

17
18 38. Following the IJ’s final order of October 1, 2025, and Petitioner’s transfer to
19 ICE custody on or about October 17, 2025, Section 1231(a) now governs Petitioner’s
20 continued detention. Importantly, the ninety-day statutory period contemplated under 8
21 U.S.C. § 1231 has already run. 8 U.S.C. § 1231(a)(1)(A)-(a)(2)(A) (government may hold
22 a noncitizen in custody during the initial ninety-day removal period following entry of a
23 final order of removal). Furthermore, the presumptively reasonable six-month period has
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1 also run. For over five and a half months, DHS made no apparent effort to identify a third
2 country for removal.

3 39. DHS regulations provide that, before the end of the 90-day removal period
4 that ensues upon a noncitizen's removal order becoming final, the local ICE field office
5 with jurisdiction over the noncitizen's detention must conduct a custody review to
6 determine whether the noncitizen should remain detained. *See* 8 C.F.R. § 241.4(c)(1),
7 (h)(1), (k)(1)(i). If the noncitizen is not released following the 90-day custody review,
8 jurisdiction transfers to ICE Headquarters (ICE HQ), *id.* § 241.4(c)(2), which must
9 conduct a custody review before or at 180 days. *Id.* § 241.4(k)(2)(ii). In making these
10 custody determinations, ICE considers several factors, including whether the noncitizen
11 is likely to pose a danger to the community or a flight risk if released. *Id.* § 241.4(e). If
12 the factors in § 241.4 are met, ICE must release the noncitizen under conditions of
13 supervision. *Id.* § 241.4(j)(2).

14 40. To avoid "indefinite detention" that would raise "serious constitutional
15 concerns," the Supreme Court in *Zadvydas* construed § 1231(a)(6) to contain an implicit
16 time limit. 533 U.S. at 682. *Zadvydas* dealt with two noncitizens who could not be
17 removed to their home country or country of citizenship due to bureaucratic and
18 diplomatic barriers. The Court held that § 1231(a)(6) authorizes detention only for "a
19 period reasonably necessary to bring about the [noncitizen]'s removal from the United
20 States." *Id.* at 689. Six months of post-removal order detention is considered
21 "presumptively reasonable." *Id.* at 701.

1 41. However, “[a]t no point did the *Zadvydas* Court preclude a noncitizen from
2 challenging their detention before the end of the presumptively reasonable six-month
3 period.” *Trinh v. Homan*, 466 F. Supp 3d 1077, 1092 (C.D. Cal. 2020) (quoting *Cesar v.*
4 *Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wis. 2008), “[n]othing about this scheme supports
5 the conclusion . . . that the presumptive legality of detention within the first six months is
6 irrebuttable.”); see also *Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 994 (C.D. Cal. 2018
7 (“The Supreme Court in *Zadvydas* outlined a “guide” for approaching these detention
8 challenges, not a prohibition on claims challenging detention less than six months.”)).
9

10
11 42. After six months of detention, if there is “good reason to believe that there is
12 no significant likelihood of removal in the reasonably foreseeable future,” the burden
13 shifts to the Government to justify continued detention. *Zadvydas*, 533 U.S. at 701; see
14 also *Tumasov v. Doe*, 2026 U.S. Dist. LEXIS 33312, *8 (S.D. Cal. 2026) (finding that
15 where the Petitioner was granted withholding of removal and could not be removed to the
16 designated country of removal, and the government failed to identify any other country of
17 removal after three months, Defendants did not meet their burden).
18

19
20 43. Moreover, detention must comport with the Fifth Amendment Due Process
21 Clause. The “Due Process Clause applies to all ‘persons’ within the United States,
22 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
23 permanent.” *Zadvydas*, 533 U.S. at 693. “Freedom from imprisonment—from government
24 custody, detention, or other forms of physical restraint—lies at the heart of the liberty”
25 that the Due Process Clause protects. *Id.* at 690; see also *United States v. Salerno*, 481
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1 U.S. 739, 755 (1987) (“In our society liberty is the norm, and detention prior to trial or
2 without trial is the carefully limited exception.”).

3 44. Due process has a substantive and a procedural component. When
4 considering due process challenges, courts should first consider whether the government’s
5 deprivation of liberty violates substantive due process. Only if the detention passes muster
6 in that inquiry does the court consider a procedural due process claim. *See Huynh v. Reno*,
7 56 F. Supp. 2d 1160, 1162 n.3 (W.D. Wash. 1999) (citing *Salerno*, 481 U.S. at 746)
8 (“[O]nly when a restriction on liberty survives substantive due process scrutiny does the
9 further question of whether the restriction is implemented in a procedurally fair manner
10 become ripe for consideration.”).

11 45. Substantive due process “forbids the government to infringe certain
12 ‘fundamental’ liberty interests *at all*, no matter what process is provided, unless the
13 infringement is narrowly tailored to serve a compelling state interest.” *Reno v. Flores*, 507
14 U.S. 292, 302 (1993) (emphasis in original). Substantive due process prohibits civil
15 detention that is punitive in purpose or in effect, including detention that is unreasonably
16 prolonged. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (finding that the nature and
17 duration of confinement must “bear some reasonable relation” to its purpose); *Salerno*,
18 481 U.S. at 747 n.4 (detention may become “excessively prolonged, and therefore
19 punitive”).

20 46. Procedural due process, on the other hand, ensures that there are “adequate
21 procedural protections” to protect an individual’s interests. *Zadvydas*, 533 U.S. at 690.

1 **I. Civil immigration detention violates substantive due process if it is**
2 **punitive, meaning excessive or unnecessary in relation to its purpose.**

3 47. Substantive due process prohibits civil detention that is punitive. Civil
4 detention that has a non-punitive purpose may nevertheless be unconstitutionally punitive
5 if it is “‘excessive in relation to [its non-punitive] purpose,’ or is ‘employed to achieve
6 objectives that could be accomplished in so many alternative and less harsh methods[.]’”
7 *Jones v. Blanas*, 393 F.3d at 934 (internal citations omitted); *see also Cabrera v. Warden*
8 *of the Cal. City Det. Ctr.*, 2026 U.S. Dist. LEXIS 52637, *6 (E.D. Cal. 2026) (“As a matter
9 of substantive due process, a person detained under civil process cannot be subjected to
10 conditions that amount to punishment[] ... where the petitioner shows that the ‘challenged
11 restrictions are expressly intended to punish,’ or that the restrictions are ‘excessive in
12 relation to’ a non-punitive purpose.) (quoting *Jones v. Blanas*, 393 F.3d 918, 931-32 (9th
13 Cir. 2004)).

14 48. These principles apply to immigration detention; indeed, in proceedings
15 elsewhere “the government has conceded ‘that mandatory detention under [section]
16 1226(c) without a bond hearing violates the Due Process Clause when it becomes
17 unreasonably prolonged in relation to its purpose[.]’” *Reid v. Donelan*, 17 F.4th 1, 8 (1st
18 Cir. 2021). Prolonged immigration detention may become unconstitutionally punitive in
19 three ways.

20 49. First, civil immigration detention is not constitutionally permissible unless it
21 is reasonably related to the purpose of preventing danger to the community or flight risk.
22 *Demore v. Kim*, 538 U.S. 510, 515 (2003); *see also Zadvydas*, 533 U.S. at 690.
23
24

1 50. In *Demore*, the Supreme Court rejected a facial due process challenge to
2 mandatory detention under Section 1226(c) and upheld “brief” detention on the
3 misinformed understanding that it lasts “an average ... of 47 days” in the “vast majority”
4 of cases and otherwise rarely exceeds five months. *Demore*, 538 U.S. at 529-30. Yet
5 *Demore* did not disturb the longstanding principle that civil detention cannot be punitive
6 and did not consider the constitutionality of § 1226(c) detention that had become
7 prolonged. Where an individual does not pose a danger to the community nor a flight risk,
8 continued civil detention does not reasonably serve a legitimate government interest and
9 is, therefore, punitive.

12 51. Second, civil detention is punitive if its purpose can be achieved through
13 “less harsh” alternatives to physical custody. *Cf. Jones*, 393 F.3d at 934 (recognizing that
14 a restriction is punitive where it is aimed at an objective that could be accomplished in
15 alternative, less harsh ways). Thus, the availability of alternatives to incarceration is
16 relevant to the determination of whether civil detention is unlawfully punitive. The Ninth
17 Circuit has also explained that conditions of civil detention are presumed to be punitive
18 when they are indistinguishable from those of criminal pretrial custody. *Jones*, 393 F.3d
19 at 934.

23 52. Third, even civil detention that begins as constitutionally acceptable may
24 become unconstitutionally punitive when it exceeds a particular duration. “[F]or detention
25 to remain reasonable,” greater justification is needed “as the period of [] confinement
26 grows.” *Zadvydas*, 533 U.S. at 701; *Id.* at 690 (“A statute permitting indefinite detention
27 of [a noncitizen] would raise a serious constitutional problem”); *see also, e.g., Salerno*,

1 481 U.S. at 747 n.4 (recognizing there may be a “point at which detention in a particular
2 case might become excessively prolonged, and therefore punitive, in relation to Congress’
3 regulatory goal”); *Jackson*, 406 U.S. at 733 (expressing “substantial doubt” that statutes
4 authorizing pretrial detention of incompetent criminal defendants “could survive
5 constitutional scrutiny if interpreted to authorize indefinite commitment”); *McNeil v. Dir.*,
6 *Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (upholding “short-term confinement with a
7 limited purpose;” however, “by the same token, the duration of the confinement must be
8 strictly limited” to adhere to due process).

11 53. Indeed, the Ninth Circuit has stated that even if detention continues to serve
12 its purpose, “at some point, regardless of the risks [], due process will require that [a person
13 subject to prolonged civil confinement] be released.” *United States v. Torres*, 995 F.3d
14 695, 709-710 (9th Cir. 2021) (noting that “all parties,” including the federal government,
15 conceded this point); *see also United States v. Briggs*, 697 F.3d 98, 103 (2d Cir. 2012)
16 (“[F]or every set of circumstances, due process does impose some limit [on civil
17 confinement].”).

20 54. In sum, prolonged civil immigration detention is punitive in violation of
21 substantive due process under any of the following circumstances: (1) a person subjected
22 to prolonged civil immigration detention poses no risk of flight or danger to the
23 community; (2) restrictions short of physical custody are sufficient to mitigate any risk a
24 detained person poses; or, (3) the duration of the detention exceeds the bounds permitted
25 by due process to achieve the limited purposes of civil confinement.
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55. Where any of these three scenarios arises, the Constitution requires release from custody.

II. Even when it is non-punitive, prolonged civil immigration detention without an individualized hearing violates procedural due process.

56. Even if not punitive, prolonged immigration detention violates procedural due process absent an individualized inquiry into whether the government's asserted justification for confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Zadvydas*, 533 U.S. at 690 (citations omitted); *see Cabrera*, 2026 U.S. Dist. LEXIS 52637, *11 ("Petitioner's detention is only justified if he poses a flight risk or a danger to the community ... Without a bond hearing in which a neutral decisionmaker makes an individualized determination of whether petitioner is a danger to the community or flight risk based on the particular facts of his case, the risk of erroneous deprivation of petitioner's protected liberty interests is great.") (citing 8 U.S.C. § 1226(a); *Morales-Flores*, No. 1:25-CV-01640-TLN-EFB, 2025 U.S. Dist. LEXIS 256842, 2025 WL 3552841, at *5; *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-KES-SKO (HC), 2025 U.S. Dist. LEXIS 176124, 2025 WL 2617255, at *4 (E.D. Cal. Sept. 9, 2025); *A.E. v. Andrews*, No. 1:25-CV-00107-KES-SKO, 2025 U.S. Dist. LEXIS 94233, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025)).

57. Immigration detention that exceeds six months is prolonged, and therefore presumptively unconstitutional without an individualized hearing. *See Zadvydas*, 533 U.S. at 701; *Diouf v. Napolitano*, 634 F.3d 1081, 1091-92 (9th Cir. 2011) (holding that

1 immigration “detention becomes prolonged” after six months), *abrogated on other*
 2 *grounds as recognized in Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022).

3 **III. 8 U.S.C. § 1231(B)(3) & Article III of the Convention Against Torture**
 4 **prohibit removal to a country where an individual will be tortured.**

5
 6 58. The statute at 8 U.S.C. §1231 (b)(3) bars the removal of any individual to a
 7 country where their life or freedom would be threatened on account of certain enumerated
 8 grounds. Article III of the Convention Against Torture bars the removal of any individual
 9 to a country where they face a clear probability of torture.
 10

11 59. Individuals facing removal to any country must be provided notice and an
 12 opportunity to seek protection before such removal. *D.V.D. v. U.S. Dept. Homeland*
 13 *Security*, 25-10676, 2026 WL 521557 (D. Mass. Feb. 25, 2026); *Nguyen v. Scott*, No.
 14 2:25-CV-01398, 2025 WL 2419288, at *19 (W.D. Wash. Aug. 21, 2025). DHS must
 15 provide individuals who express a fear of return to a designated country of removal an
 16 opportunity to demonstrate a reasonable fear of persecution or torture to an asylum officer,
 17 and those who pass this threshold are eligible to apply for withholding of removal under
 18 8 U.S.C. §1231(b)(3) and/or CAT protection. *See* 8 C.F.R. §§238.1(f)(3), 208.31, 1208.31.
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22 60. Failing to notify individuals who are subject to deportation that they have the
 23 right to apply. . .for withholding of deportation to the country to which they will be
 24 deported violates both INS regulations and the constitutional right to due process.
 25 *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999).
 26

27 **ARGUMENT**

1 61. Petitioner's civil immigration detention of nearly six months in conditions
2 that are indistinguishable—and often worse—than in criminal custody is excessive in
3 relation to the government's interests. His detention is therefore punitive in violation of
4 his right to substantive due process. Petitioner is entitled to immediate release from civil
5 custody.
6

7 62. Even if this Court does not find that Petitioner prolonged detention violates
8 his right to substantive due process, procedural due process entitles Petitioner to an
9 evidentiary hearing before a neutral decisionmaker to evaluate the necessity of his
10 continued detention.
11

12 **I. Petitioner's continued detention is punitive in violation of his right to**
13 **substantive due process.**

14 63. Petitioner's prolonged civil immigration detention is punitive and violates
15 his right to substantive due process in three independent ways.
16

17 ***A. First, Petitioner's continued detention does not serve any***
18 ***nonpunitive governmental interest because Petitioner is neither a***
19 ***flight risk nor a danger to his community.***

20 64. Civil immigration detention is not constitutionally permissible unless it is
21 reasonably related to the purpose of preventing flight risk or danger to the community.
22 *Demore*, 538 U.S. at 515; *Zadvydas*, 533 U.S. at 690. Here, continued detention serves
23 neither interest, as Petitioner is neither a flight risk nor a danger to the community.
24

25 1. **Petitioner is not a flight risk.**

26 65. As a gay man from a well-known, politically active Egyptian family who
27 has sought and been granted refuge in the United States not once but *twice*, and whose
28

1 close U.S. citizen and Lawful Permanent Resident family, including his widowed mother,
2 live in Arizona; Petitioner is clearly not a flight risk. Ex. D, Declaration of Petitioner.

3 66. In a written decision following Petitioner's October 1, 2025, merits hearing,
4 the Immigration Judge granted Petitioner's application for protection under the
5 Convention Against Torture, finding that there was a "clear probability" that Petitioner
6 faced torture in Egypt because [REDACTED]
7 [REDACTED]

8 [REDACTED] Ex. C, Immigration Judge's Written Decision.
9

10 2. Petitioner is not a danger to the community.

11 67. The government's continued confinement of Petitioner, when he is neither a
12 flight risk nor a danger to the community, does not serve any legitimate interest. During
13 his time in prison and in immigration detention, Petitioner has worked hard on his
14 recovery, accepting his identity and on self-improvement. *Id.* Far from being a danger to
15 his community, Petitioner is focused on returning home to help and care for his mother,
16 to finish his university education, and to give back to his community. *Id.*
17

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19 **B. *Second, even if the Court were to find that Petitioner presents some***
20 ***risk, restrictions short of his continued physical confinement are***
21 ***sufficient to mitigate any risk.***

22 68. Petitioner is entitled to a presumption that his continued civil confinement is
23 unlawfully punitive because the conditions are indistinguishable from, or worse, than
24 those of criminal custody. Petitioner's civil incarceration is excessive in relation to the
25 government's interest. *Doe*, 732 F. Supp. 3d at 1088 (explaining that due process requires,
26 at minimum, that the conditions of a civil detainee's confinement "must be less restrictive
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1 than post-conviction criminal detention”); *id.* at 1089 (adding that “harsh conditions
2 multiply the burden on liberty for any given period.”); *Cf. Jones*, 393 F.3d at 934.

3 69. Moreover, even if the Court finds that Petitioner poses some risk of flight or
4 danger to the community, there are “less harsh” alternatives to continued physical custody
5 available to mitigate those risks. *Doe*, 732 F. Supp. 3d at 1088 (finding that ICE’s GPS
6 monitoring program “can significantly mitigate flight risk and potentially mitigate any
7 danger to the community.”); *Jones*, 393 F.3d at 934; *See also Doe v. Chestnut*, 2025
8 U.S.Dist.LEXIS 228839 (E.D. Cal. 2025) (prolonged detention was not warranted where
9 alternatives to detention could be employed to ensure appearance in future hearings and
10 to protect the community).

11 70. The Court may consider and order alternatives to incarceration to mitigate
12 any risks that it determines that Petitioner may pose, including any of the conditions that
13 it regularly applies when granting pretrial defendants bail.

14 71. The extraordinary success of ICE’s Intensive Supervision Appearance
15 Program (“ISAP”) further demonstrates that release on conditions can effectively mitigate
16 any possible risk. ISAP has received compliance rates close to perfect. *See Hernandez v.*
17 *Sessions*, 872 F.3d at 991 (ISAP “resulted in a 99% attendance rate at all EOIR hearings
18 and a 95% attendance rate at final hearings”). Alternatives to detention, moreover, are far
19 less costly for the government than continued incarceration. *See Id.* at 996-97.

20 **C. *Third, even assuming no alternatives to incarceration could***
21 ***mitigate any risk Petitioner might pose, the duration of his***
22 ***detention exceeds the bounds of due process.***

1 72. Even if the Court finds that no alternatives to incarceration would mitigate
2 any risk that Petitioner poses, the duration of his detention exceeds the bounds permitted
3 by due process. “At some point [civil] detention can become excessively prolonged, and
4 therefore punitive, resulting in a due process violation.” *Torres*, 995 F.3d at 709-10; *Doe*
5 *v. Wofford*, 2025 U.S. Dist. LEXIS 86465, *15 (E.D. Cal. May 6, 2025) (“A due process
6 violation occurs when detention becomes punitive rather than regulatory, meaning there
7 is no regulatory purpose that can rationally be assigned to the detention or the detention
8 appears excessive in relation to its regulatory purpose.”) (quoting *Torres*, 995 F.3d at 708).

11 73. In the context of a criminal defendant’s pretrial detention, the Supreme Court
12 upheld a statute creating a categorical presumption of pretrial detention for people
13 convicted of certain crimes but made clear that otherwise permissible detention violated
14 the Constitution once it became prolonged. *Salerno*, 481 U.S. 739 (where the Court found
15 that pretrial detention of criminal defendants under the Bail Reform Act of 1984 did not
16 violate the substantive or procedural protections of the due process clause of the fifth
17 amendment). Applying *Salerno*, the Ninth Circuit recently held that twenty-one months
18 of pre-trial detention “is approaching the limits of what due process can tolerate” for a
19 defendant awaiting trial who had multiple prior convictions and a history of failing to
20 appear in court. *Torres*, 995 F.3d at 709-10 (holding that “due process demands that the
21 district court begin *Torres*’s trial or reconsider bail subject to appropriate conditions very
22 soon.”); *See also Chantha v. Warden*, 2026 U.S. Dist. LEXIS 76307 (E.D. Cal. 2026)
23 (holding that detention of the Petitioner who had prior criminal convictions had become
24 prolonged at nearly nine months, and noting that courts had determined that detention
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1 periods of six and seven months gave rise to due process violations) (citing *Chen v. Aitken*,
2 917 F. Supp. 2d 1013, 1018 (N.D. Cal. 2013) and *Cabral v. Decker*, 331 F. Supp. 3d 255,
3 261 (S.D.N.Y. 2018)).

4
5 74. Importantly, in *Torres* and other post-*Salerno* jurisprudence, the petitioner
6 had already undergone a hearing to determine whether “no bail conditions would
7 reasonably assure [their] appearance at court hearings and the safety of the community”—
8 an inquiry that no adjudicator has yet undertaken in Petitioner’s case. *See Torres*, 995 F.3d
9 at 700 (referring to provisions of Bail Reform Act at 18 U.S.C. § 3142(e)).

10
11 75. Petitioner’s six months-and-counting of confinement, coupled with the fact
12 that his detention could potentially continue for years while DHS attempts to obtain travel
13 documents to remove him to a third country where he would not be imprisoned and
14 tortured on account of his sexual orientation, suggests that he is certain to approach the
15 duration of civil confinement that three Courts of Appeals recognize as the outer limits of
16 confinement that the Constitution could withstand. *See Chantha*, 2026 U.S. Dist. LEXIS
17 76307 (nine months constituted prolonged detention where the government had failed to
18 identify a viable third country of removal); *See also Torres*, 995 F.3d at 709-710 (21
19 months); *U.S. v. Gonzales Claudio*, 806 F.2d 334, 343 (2d Cir. 1986) (14 months); *U.S. v.*
20 *Zannino*, 798 F.2d 544, 548-549 (16 months). This holds true even when no conditions of
21 release could accomplish the government’s non-punitive objectives, which is not the case
22 here. *Id.*

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27 **D. This Court has the authority to order Petitioner’s release to remedy**
28 **the substantive due process violation.**

1 76. If the Court finds that Petitioner's continued detention is punitive and a
2 substantive due process violation, the only proper remedy is release. That remedy is well
3 within the Court's habeas power as well as the Court's equitable powers to remedy a
4 constitutional violation under § 1331.
5

6 77. The federal habeas statute directs district courts to "dispose of the matter as
7 law and justice require." 28 U.S.C. § 2243; *see also Hilton v. Braunskill*, 481 U.S. 770,
8 775 (1987) (explaining that habeas courts have long had "the largest power to control and
9 direct the form of judgment to be entered") (quoting *In re Bonner*, 151 U. S. 242, 261
10 (1894)).
11

12 78. In immigration habeas cases, courts regularly order release upon determining
13 that detention violates substantive due process. *See, e.g., Doe*, 732 F. Supp. 3d at 1090
14 (concluding that petitioner's continued detention without having been "afforded the
15 procedural protections required...violates his rights under the Due Process Clause of the
16 Fifth Amendment," and requiring the government to propose an injunction for petitioner's
17 immediate release "under whatever conditions the government believes will help address
18 its concerns regarding flight risk or danger to the community," including enrollment in
19 one of ICE's extraordinarily successful GPS monitoring programs); *Gonzalez v. Bonnar*,
20 2019 U.S. Dist. LEXIS 12636, *1 (N.D. Cal. January 25, 2019) (concluding that
21 petitioner's prolonged immigration detention violated substantive due process and
22 ordering release); *see also Doe v. Chestnut*, 2025 U.S. Dist. LEXIS 228839, *72 (E.D.
23 Cal. November 20, 2025) (Petitioner's prolonged detention after completion of criminal
24 sentence was excessive detention after completion of criminal sentence was excessive and
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1 violated substantive due process where there was limited evidence of current danger to
2 the community and there were available alternatives to detention).

3 79. Under such circumstances, district courts may impose conditions of release
4 to manage the governmental interests at stake. *See, e.g., Ortuño v. Jennings*, No. 20-cv-
5 02064-MMC, 2020 WL1701724, at *5 (N.D. Cal. Apr. 8, 2020) (setting conditions of
6 release); *Zepeda Rivas v. Jennings*, No. 20-CV-02731-VC, 465 F. Supp. 3d 1028, 1036
7 (N.D. Cal. 2020) (citing inherent habeas authority to release on bail); *Id.*, Dkt. 543 (N.D.
8 Cal. Aug. 13, 2020) (setting multiple conditions of release); *id.*, Dkt. 471 (N.D. Cal. July
9 31, 2020) (conditioning release on attendance at group sobriety meetings). Likewise, the
10 Ninth Circuit has held that district courts have the authority to grant injunctive relief—
11 including release—to remedy a constitutional violation. *See Roman*, 977 F.3d at 941-42;
12 *see also Jose G.R. v. Warden*, 2026 U.S. Dist. LEXIS 54231, *3 (E.D. Cal. March 16,
13 2026 (the appropriate remedy for unlawful detention is immediate release); *Doe v.*
14 *Chestnut*, 2025 U.S. Dist. at *72 (“[H]abeas corpus is, at its core, an equitable remedy[]”
15 for unlawful detention) (quoting *Schlup v. Delo*, 513 U.S. 298, 319, 115 S. Ct. 851, 130
16 L. Ed. 2d 808 (1995))). Whether it is under the habeas statute, or its broad powers to craft
17 adequate equitable relief, this Court has authority to order release and craft appropriate
18 conditions as necessary.

19 80. Here, because Petitioner’s prolonged continued detention is excessive and
20 unnecessary in relation to any governmental interests, the Court must release him.

21 **II. Alternatively, Petitioner’s prolonged categorical detention without an**
22 **individualized determination violates procedural due process.**

1 81. Because Petitioner is subject to punitive civil incarceration in violation of
2 substantive due process, this Court does not need to reach the question of whether his
3 detention also violates procedural due process. However, should the Court reach this issue,
4 this Court should find that Petitioner's prolonged detention violates procedural due
5 process absent an individualized inquiry into whether the government's justification for
6 his confinement outweighs his "constitutionally protected interest in avoiding physical
7 restraint." *Zadvydas*, 533 U.S. at 690 (citations omitted). Courts in the Ninth Circuit
8 generally apply the due process framework articulated by the Supreme Court in *Mathews*
9 *v. Eldridge* to determine whether ongoing detention under 8 U.S.C. § 1226(c) violates a
10 petitioner's due process rights. *Mathews v. Eldridge*, 424 U.S. 319 (1976); *E.E.O.H. v.*
11 *Noem*, 2026 U.S. Dist. LEXIS 65191, *1 (E.D. Cal. March 26, 2026); *see also, e.g., Doe*
12 *v. Chestnut*, 2025 U.S. Dist. LEXIS 232754, *1 (E.D. Cal. November 26, 2025). As
13 discussed *infra*, under the *Mathews* test Petitioner demonstrated that his continued
14 detention violates his procedural due process rights.

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19 **A. *The Mathews v. Eldridge balancing test***

20 82. The *Mathews* test for procedural due process claims balances: (1) the private
21 interest threatened by governmental action; (2) the risk of erroneous deprivation of such
22 interest and the value of additional or substitute safeguards; and (3) the government
23 interest. 424 U.S. at 335. Here, each factor weighs in Petitioner's favor, requiring this
24 Court to promptly order his release.
25
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27 83. First, Petitioner has a weighty interest in his own liberty, the core privacy
28 interest at stake here. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment...lies at

1 the heart of the liberty [the Due Process Clause] protects.”). Petitioner, who is being held
2 in “incarceration-like conditions,” has an overwhelming interest, regardless of the length
3 of his immigration detention, because “any length of detention implicates the same”
4 fundamental rights. *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at
5 *6 (N.D. Cal. Dec. 22, 2020); *Gonzalez v. Bonnar*, 2019 U.S. Dist. at *22 (in court-ordered
6 bond hearings following a habeas, the government bears the burden to justify continued
7 detention by clear and convincing evidence).
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10 84. Petitioner’s private interest is particularly profound because he has been
11 detained for nearly six months and neither release nor removal are remotely in sight: DHS
12 has neither obtained travel documents to remove Petitioner, nor identified a third country
13 both that would accept him and where he would not be subjected to imprisonment and
14 torture on account of his sexual orientation. His time in civil detention is now over three
15 times the length of the “brief” detention contemplated by the court in *Demore*. 538 U.S.
16 at 530 (citing an average detention length of one and a half months for cases that do not
17 involve an appeal). This confinement is likely to continue for many more months, and
18 possibly for years, and through no fault or delay of his own. *See Zadvydas*, 533 U.S. at
19 690, 691, 696 (strength of liberty interest increases as period of confinement grows);
20 *Diouf*, 634 F.3d at 1091-92 (“When detention crosses the six-month threshold and release
21 or removal is not imminent, the private interests at stake are profound.”).
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25 85. Second, Petitioner will suffer the erroneous risk of deprivation of his liberty
26 without an individualized evidentiary hearing. The risk of erroneous deprivation of his
27 liberty is high, as he has been detained since October 17, 2025, without any evaluation of
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1 whether the government can justify detention under his individualized circumstances.
2 “[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a
3 neutral decisionmaker is substantial.” *Diouf*, 634 F.3d at 1092. “[T]he essential
4 requirements of procedural due process include adequate notice and an opportunity to be
5 heard at a meaningful time and in a meaningful manner.” *J.L.R.P. v. Wofford*, 2025 U.S.
6 Dist. LEXIS 224967, *18 (E.D. Cal. November 14, 2025) (quoting *Aponte-Rosario v.*
7 *Acevedo-Vila*, 617 F.3d 1, 9 (1st Cir. 2010)) (internal quotation marks omitted). Petitioner
8 has not received an individualized evidentiary hearing before a neutral decisionmaker in
9 the nearly six months in which he has been detained. An evidentiary hearing is a valuable
10 procedural safeguard because the government has not proven to a neutral decisionmaker
11 that Petitioner’s detention is warranted or that his ongoing detention is necessary. On the
12 contrary, Petitioner neither poses a danger nor a flight risk.

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

1 87. Moreover, the bond hearing Petitioner seeks is a routine process that the
2 government provides on a daily basis and would impose only a *de minimis* burden on the
3 government. The government has conceded as much in similar cases. *Singh v. Andrews*,
4 2025 WL 1918679 at *8 (E.D.Cal. 2025) (“In immigration court, custody hearings are
5 routine and imposed a ‘minimal’ cost.”) (internal quotation marks omitted). Even
6 assuming there are some fractional costs borne by the government, they are “easily
7 outweighed by the reduction in the risk of erroneous deprivation of liberty that would
8 result from the additional safeguard” of a bond hearing. *Hernandez*, 872 F.3d at 994.
9

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

13 88. Where a custody hearing is warranted as a procedural safeguard against
14 unreasonably prolonged detention, the government bears the burden of justifying
15 continued confinement by clear and convincing evidence. *Zadvydas*, 533 U.S. at 699 (If a
16 noncitizen “provides a good reason to believe that there is no significant likelihood of
17 removal in the reasonably foreseeable future; the Government must respond with evidence
18 sufficient to rebut that showing.”); *Singh v. Holder*, 638 F.3d 1196, 1205 (9th Cir. 2011);
19 *Martinez v. Clark*, 124 F.4th 775, 784-86 (9th Cir. 2024) (confirming that the government
20 bears the “clear-and-convincing burden of proof” at an immigration bond hearing ordered
21 pursuant to the due process clause); *Gonzalez v. Bonnar*, 2019 U.S. Dist. at *22 (“a
22 petitioner’s ‘continued detention violates the Due Process Clause unless the government
23 demonstrates by clear and convincing evidence before a neutral decisionmaker that it is
24 necessary to serve a compelling regulatory purpose’”) (quoting *Hernandez v. Decker*, No.
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1 18-CV-5026 (ALC), 2018 U.S. Dist. LEXIS 124613, 2018 WL 3579108, at *11 (S.D.N.Y.
2 July 25, 2018)).

3 89. Moreover, at the evidentiary hearing, the adjudicator should consider
4 alternatives to detention and Petitioner's financial circumstances in determining whether
5 further detention is warranted and the conditions of his release. *See, e.g., Hernandez*, 872
6 F.3d at 994 ("If the government is setting monetary bonds to ensure appearance at future
7 proceedings, there is no legitimate reason for it not to consider the individual's financial
8 circumstances and alternative conditions of release.")

11 **III. Violation of 8 U.S.C. §1231(b)(3) and Article III of the Convention**
12 **Against Torture.**

13 90. The statute at 8 U.S.C. §1231 (b)(3) bars the removal of any individual to a
14 country where their life or freedom would be threatened on account of certain enumerated
15 grounds. Article III of the Convention Against Torture bars the removal of any individual
16 to a country where they face a clear probability of torture.

17 91. Since an immigration judge has commanded against Petitioner's removal to
18 Egypt, Petitioner cannot be removed to that country. ICE has verbally indicated to
19 Petitioner that it is considering Cameroon and Guinea as viable third countries of removal.
20 As of Petitioner's April 23, 2026 transfer to Florence, Arizona, he was informed that he
21 may be removed to "Latin America."
22

23 92. Petitioner must be provided with notice and an opportunity to seek protection
24 before he may be removed to a third country. *D.V.D. v. U.S. Dept. Homeland Security*,
25 25-10676, 2026 WL 521557 (D. Mass. Feb. 25, 2026); *Nguyen v. Scott*, No. 2:25-CV-
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01398, 2025 WL 2419288, at *19 (W.D. Wash. Aug. 21, 2025). DHS must provide individuals who express a fear of return to a designated country of removal an opportunity to demonstrate a reasonable fear of persecution or torture to an asylum officer, and those who pass this threshold are eligible to apply for withholding of removal under 8 U.S.C. §1231(b)(3) and/or CAT protection. *See* 8 C.F.R. §§238.1(f)(3), 208.31, 1208.31.

93. Failing to notify individuals who are subject to deportation that they have the right to apply. . .for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process. *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999).

94. Petitioner, through counsel, has several times expressed a demand to be provided with an opportunity to demonstrate his fear of return to any third country, and twice expressed this demand specific to Cameroon. He has not received any response.

95. Respondents' actions of detaining Petitioner under threat of removal to a third country, absent notice and an opportunity to be heard, violates 8 U.S.C. §1231(b)(3) and Article III of the Convention Against Torture.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment: Substantive Due Process

96. Petitioner re-alleges and incorporates by reference the paragraphs above.

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

10 100. Petitioner does not pose a danger nor a flight risk; and his ongoing detention
11 is excessive in relation to any legitimate government interest, which would be amply
12 satisfied by his release on appropriate conditions.

SECOND CLAIM FOR RELIEF

19 102. Petitioner re-alleges and incorporates by reference the paragraphs above.

104. Petitioner's detention has become prolonged as he has been detained for nearly six months already and faces months, possibly years, of continued detention.

PETITION FOR WRIT OF HABEAS CORPUS
A.M.A.S. v. *Warden, et al.*

1 to the procedural due process tests applied by courts across the country, including in this
2 district, his unreviewed confinement has become unreasonably prolonged.

3 106. The Due Process Clause requires the government to establish, at an
4 individualized hearing before a neutral decisionmaker, that Petitioner's prolonged and
5 continued detention is justified by clear and convincing evidence of flight risk or danger,
6 even after consideration of whether alternatives to detention could sufficiently mitigate
7 that risk.
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10 107. Petitioner's ongoing and prolonged detention without an individualized
11 evidentiary hearing violates procedural due process.

12 **THIRD CLAIM FOR RELIEF**

13 **Violation of Due Process, 8 U.S.C. §1231(b)(3), and Article III of the Convention** 14 **Against Torture** 15 **(Third Country Removal)**

16 108. Petitioner incorporates the allegations in the paragraphs above as though
17 fully set forth here.
18

19 109. The statute at 8 U.S.C. §1231(b)(3) bars the removal of any individual to a
20 country where their life or freedom would be threatened on account of certain enumerated
21 grounds. Article III of the Convention Against Torture bars the removal of any individual
22 to a country where they face a clear probability of torture.
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24 110. Since an immigration judge has commanded against Petitioner's removal to
25 Egypt, Petitioner cannot be removed to that country. ICE has verbally indicated to
26 Petitioner that Cameroon will accept him.
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111. Respondents' actions of detaining Petitioner under threat of removal to a third country, absent notice and an opportunity to be heard, violates Due Process, 8 U.S.C. §1231((b)(3), and Article III of the Convention Against Torture.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
- 3) Enjoin the Respondents from transferring Petitioner away from the jurisdiction of this District pending these proceedings;
- 4) Issue an order directing Respondents to show cause why this petition for a writ of habeas corpus should not be granted;
- 5) Issue a Writ of Habeas Corpus and order Respondents to immediately release Petitioner from DHS's physical custody or enjoin Respondents from continuing to detain Petitioner.
- 6) In the alternative, Issue a Writ of Habeas Corpus and, enjoin the government from continuing to detain Petitioner absent a hearing before this Court or an Immigration Judge within 14 days where the government must establish the necessity of further detention by clear and convincing evidence, and where the adjudicator evaluates Petitioner's ability to pay in setting bond, and considers alternative conditions of release that reasonably assure the safety of the community;

1 7) Grant any other relief that the Court deems just and proper.

2 Dated: April 24, 2026

Respectfully Submitted,

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/s/ Jesse Evans-Schroeder

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Attorney for Petitioner

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