

1 Naira Zohrabyan, Esq. [SBN 337925]
2 ZOHRABYAN LAW, APC
3 100 W. Broadway, Suite 540
4 Glendale, CA 91210
5 Tel: 818-270-5150
6 Fax: (747) 327-4059
7 Email: naira@zohrabyanlaw.com

DETAINED

8 Attorneys for Petitioner Hatim Abdel Mongy Abdala Baker

9
10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13
14 **In the matter of:**

) **Case Number: '26CV2935 JES BJW**

15)
16 **HATIM ABDEL MONGY**



17 **ABDALA BAKER**

) **SECOND PETITION FOR WRIT**
) **OF HABEAS CORPUS AND**
) **ORDER TO SHOW CAUSE**
) **WITHIN THREE DAYS;**
) **COMPLAINT FOR**
) **DECLARATORY RELIEF**

18
19 **v.**

20
21
22 **CHRISTOPHER J. LAROSE,**
23 **WARDEN OF OTAY MESA**
24 **DETENTION CENTER**

) **Challenge to Unlawful**
) **Incarceration; Request for**
) **Declaratory and Injunctive Relief**

25)
26)
27)
28)

SECOND PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY RELIEF



INTRODUCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. Petitioner Hatim Abdel Mongy Abdalla Bakr (“Petitioner”) seeks a writ of habeas corpus under 28 U.S.C. § 2241 challenging his prolonged and unconstitutional immigration detention under 8 U.S.C. § 1226(a).
2. Petitioner has been detained for approximately eight (8) months without a constitutionally adequate bond hearing. Although he was provided a hearing before an Immigration Judge, that proceeding failed to satisfy due process because the government was not required to meet the constitutionally mandated burden of proof, the decision relied on unsupported assertions, and the court failed to meaningfully consider alternatives to detention, Petitioner’s ability to pay, and overwhelming evidence of his community ties.
3. Petitioner is a 59-year-old longtime U.S. resident with over twenty years of continuous presence. He has complied with all immigration requirements, has no significant criminal history, and has strong family and community ties, including U.S.-citizen children who depend on him for emotional and financial support.
4. Petitioner’s continued detention is not only procedurally deficient, but also substantively unconstitutional. He suffers from severe and documented medical conditions, [REDACTED] [REDACTED]—all of which have been inadequately treated in detention. During his detention, Petitioner has experienced rapid and dangerous physical deterioration, including significant weight loss and lack of access to necessary specialist care.
5. Despite these extraordinary humanitarian factors, Respondents continue to detain Petitioner without meaningful review of whether his continued custody



1 is justified. His prolonged detention, under these circumstances, violates the
2 Due Process Clause of the Fifth Amendment.

- 3 6. Petitioner has now fully exhausted available administrative remedies by timely
4 appealing the Immigration Judge's custody determination and denial of relief to
5 the Board of Immigration Appeals. Because administrative review cannot
6 remedy the ongoing constitutional violations caused by his prolonged detention,
7 habeas relief is appropriate and necessary.
- 8 7. Petitioner respectfully requests that this Court order his immediate release. In
9 the alternative, Petitioner requests that this Court order Respondents to provide
10 a constitutionally adequate bond hearing within seven (7) days, at which the
11 government bears the burden of proving by clear and convincing evidence that
12 continued detention is justified.

13 **STATEMENT OF FACTS**

- 14
- 15 8. Petitioner Hatim Abdel Mongy Abdalla Bakr is a 59-year-old long-term resident
16 of the United States who has been unlawfully detained by Immigration and
17 Customs Enforcement ("ICE") at the Otay Mesa Detention Center ("OMDC")
18 on or around September 9, 2025, now exceedingly over **eight (8) months**.
19 Petitioner was paroled in as an arriving alien on or around April 8, 2005. He has
20 no prior removal or deportation orders, owns a business in New York City, pays
21 taxes annually since 2010, and supports his U.S.-citizen family, including a 17-
22 year-old son with severe mental health issues exacerbated by his detention. He
23 has a pending I-130 petition through his U.S.-citizen family. Also, he has
24 pending appeal for his EOIR-42B application for cancellation of removal under
25 INA § 240A(b). True and correct copies of I-94, Notice to Appear, USCIS
26 Notice of I-130, and appeal confirmation of EOIR-42B application for
27
28



1 cancellation of removal are attached herein as **Exhibit “A,” Exhibit “B,”**
2 **Exhibit “C,” and Exhibit “D,”** respectfully.

3 9. Despite his compliance with all immigration requirements Respondents
4 continue to detain him without meaningful review of whether his continued
5 custody is justified.

6 10. Petitioner's detention violates the Fifth Amendment Due Process Clause because
7 it is unconstitutionally prolonged and punitive given his serious medical
8 vulnerabilities, including a pre-detention diagnosis of [REDACTED]

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]—all inadequately managed at OMDC. Since detention, Petitioner has
12 lost at least 18 pounds (documented in medical records), demonstrating rapid
13 deterioration in a facility with a well-documented history of substandard medical
14 care for chronic conditions like cancer and cardiac disease.

15 11. OMDC's failure to provide timely specialist care, diagnostic testing (e.g., PSA
16 levels, urology consult, biopsy), or surgical intervention, coupled with
17 Petitioner's daily reliance on six medications for his conditions, constitutes
18 deliberate indifference to his serious medical needs, rendering his detention
19 punitive and a violation of substantive due process. This is particularly acute
20 considering Petitioner's short-term detention under INA § 1226(a), where no
21 bond hearing has been provided despite clear humanitarian factors.

22 12. Petitioner's continued detention also inflicts irreparable harm on his U.S.-citizen
23 family, including his 17-year-old son, [REDACTED] who was hospitalized for
24 suicidal ideation and self-harm directly attributable to Petitioner's absence as his
25 sole financial and emotional supporter. [REDACTED], with a documented history of
26 depression, has been withdrawn from school and faces homelessness risks.
27
28



1 These family hardships, combined with Petitioner's strong community ties,
2 outweigh any flight risk or danger, which is negligible given his compliance
3 history.

4 13. Petitioner respectfully requests that this Court order his immediate release or, at
5 minimum, require Respondents to provide a prompt bond hearing at which the
6 government bears the burden of proof by clear and convincing evidence.

7 14. Petitioner, a native and citizen of Egypt, has resided continuously in the United
8 States for over 20 years. He owns a commissary business in New York City with
9 more than \$20,000 in monthly expenses, has paid federal and state taxes every
10 year since 2010, and financially supports a handicapped child in his community.

11 15. Petitioner has one minor criminal conviction more than twelve years old: a
12 February 2013 misdemeanor retail-theft offense in Lehigh County, Pennsylvania
13 (Docket MJ-31107-CR-0000100-2013), resolved the same month with bail
14 posted and no incarceration imposed. This dated, non-violent offense does not
15 constitute a crime involving moral turpitude and is vastly outweighed by
16 Petitioner's decades of law-abiding conduct and community contributions.

17 16. Petitioner suffers from [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 He is prescribed Aspirin 81 mg,
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 17. Petitioner is currently detained at the Otay Mesa Detention Center, CA.

26 18. Since detention, Petitioner's weight has fallen from 199 lbs (September 12,
27 2025) to 181 lbs (November 18, 2025), an 18-pound loss in 67 days, with family
28



1 reporting over 26 pounds total. Such rapid weight loss in a post-open-heart-
2 surgery patient is life-threatening.

3 19.OMDC has provided no oncology or urology referral despite clear need. This
4 pattern of deliberate indifference is consistent with ongoing *Fraihat* non-
5 compliance at Otay Mesa. *See Fraihat v. ICE*, 16 F.4th 613 (9th Cir. 2021)
6 (addresses reckless disregard of health risks by ICE).

7 20.On or about December 10, 2025, Petitioner filed a writ of habeas corpus pursuant
8 to U.S.C. § 224. Petitioner claimed that he is detained by Immigration and
9 Customs Enforcement (“ICE”) in violation of the Immigration and Nationality
10 Act, the Fifth Amendment, the injunction in *Fraihat v. ICE*, Case No. 5:19-cv-
11 01546-JGB-SHK (C.D. Cal. Apr. 20, 2020), and Section 504 of the
12 Rehabilitation Act. [Id. at 2–3, 8–9.] He seeks immediate release or, at
13 minimum, a bond hearing. [Id. at 9.]

14 21.On or about December 24, 2025, Federal District Court Ordered Respondents to
15 provide Petitioner an individualized bond hearing before an Immigration Judge
16 pursuant to 8 U.S.C. § 1226(a) and its associated regulations by January 7, 2026.
17 The Court further ordered to update on the status of Petitioner’s bond hearing by
18 January 9, 2026.

19 22.On or about December 30, 2025 Petitioner filed a Motion to Permit the Filing of
20 Form EOIR-42B (Cancellation of Removal) showing his prima facie eligibility
21 supporting the documentary evidence that he has accrued well over ten (10)
22 years of continuous physical presence in the United States; ha has maintained
23 good moral character, with no disqualifying criminal history; he has established
24 strong family, community and economic ties in the United States, including U.
25 S. citizen qualifying relatives; and removal would be exceptional and extremely
26 unusual hardship to one or more qualifying relatives, including but not limited
27
28



1 to emotional, physiological, educational, medical, and financial hardship,
2 evaluated in the aggregate as required by law.

3 65. On or about December 31, 2025, Petitioner was provided an individualized bond
4 hearing under 8 U.S.C. § 1226(a). The Immigration Judge unreasonably denied
5 Petitioner's bond as flight risk. The Immigration Judge denied release based on
6 the government's unsupported assertion that Petitioner posed a flight risk. A true
7 and correct copy of IJ Order denying bond is attached herein as an **Exhibit "E."**

8 23. Petitioner has submitted all supporting evidence, tax returns and letters of
9 support from US citizens friends, with sufficient income to provide for
10 Petitioner.

11 24. Petitioner has deep community ties, including two U.S. citizen children, steady
12 employment authorization, and a consistent history of tax compliance. He has
13 appeared for all immigration appointments, demonstrating reliability and lack of
14 flight risk.

15 25. Petitioner three children, who are US Citizens and who are willing to support
16 Petitioners during his immigration proceedings. This fact was blatantly ignored
17 by the Immigration Judge who denied the bond.

18 26. Likewise, Petitioner has been residing in the United States in the past twenty
19 years. He possesses a valid Social Security number, has been authorized to work
20 in the United States, and has consistently filed and paid federal income taxes,
21 demonstrating compliance with U.S. law and a strong record of responsibility.
22 He owns a commissary business in New York City with more than \$20,000 in
23 monthly expenses, has paid federal and state taxes every year since 2010, and
24 financially supports a handicapped child in his community.

25 27. The bond hearing held on December 31, 2025 did not cure the constitutional
26 violation because: (1) the government was not required to meet a clear and
27
28



1 convincing standard; (2) the Immigration Judge relied on unsupported
2 assertions; (3) the court failed to consider alternatives to detention and ability to
3 pay; and (4) the decision ignored substantial evidence of community ties.

4 28. On or about January 7, 2026, Petitioner filed an opposition to dismissal arguing
5 that “the hearing did not satisfy the connotational minimums necessary to cure
6 the due process violation underlying the habeas petition”.

7 29. On or about January 30, 2026, United States District Court dismissed the Petition
8 without prejudice stating that Petitioner should have exhausted administrative
9 remedies by appealing to the BIA before asking the federal district court to
10 review the IJ’s decision citing *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th
11 *Cir. 2011*).

12 66. Petitioner timely appealed the decision of Immigration Judge to the Board of
13 Immigration Appeals and it’s still pending. A true and correct copy of Receipt of
14 Appeal of IJ Order denying bond is attached herein as an **Exhibit “F.”**

15 30. Petitioner has now fully satisfied the exhaustion requirement. The prior
16 dismissal without prejudice was expressly based on lack of exhaustion.
17 Petitioner has since timely appealed both the custody determination and merits
18 decision to the Board of Immigration Appeals. Accordingly, exhaustion is
19 complete or excused because further administrative review is inadequate to
20 remedy the ongoing constitutional violation caused by prolonged detention.
21

22 31. On or about April 20, 2026, the Immigration Judge denied Petitioner’s
23 Application for Cancellation of Removal for Lawful Permanent Residents under
24 INA § 240A(a).

25 32. On or about April 28, 2026, Petitioner timely appealed Immigration Judge’s
26 decision to the Board of Immigration Appeal and it’s still pending.
27
28



1 33. During his prolonged detention, Petitioner has suffered significant physical and
2 mental health deterioration. His continued confinement has caused and
3 continues to cause serious harm.

4 34. Respondents now seek to keep Petitioner detained without a meaningful
5 opportunity to seek a bond hearing. *See* 8 U.S.C. § 1226(a). Respondents do so
6 based not on Petitioner’s personal circumstances or individualized facts.

7 35. But Respondents cannot evade due process requirements so easily. The U.S.
8 Constitution requires the Respondents provide at least the rights available to his
9 when he filed his application.

10 36. The Constitution protects Petitioner, and every other person present in this
11 country- from arbitrary deprivations of his liberty and guarantees his due process
12 of law. The government’s power over immigration is broad, but as the Supreme
13 Court has declared, it “is subject to important constitutional limitations”
14 *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint
15 always been at the core of the liberty protected by the Due Process Clause from
16 arbitrary governmental action” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

17 37. Petitioner seeks declaratory and injunctive relief to compel his immediate
18 release from the immigration jail where he has been held by DHS since being
19 unlawfully detained on September 9, 2025, without first being provided a due
20 process hearing to determine whether his incarceration is justified.

21 38. Petitioner is entitled to a adequate bond hearing; Petitioner has a protected
22 liberty interest in remaining out of custody. As Petitioner has a protected liberty
23 interest, the Due Process Clause requires procedural protections before he can
24 be deprived of that interest. Government’s revocation of Petitioner’s release on
25 recognizance without notification, reasoning, or an opportunity to heard, denied
26 Petitioner his due process rights.
27
28



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

39. Absent review in this Court, no other neutral adjudicator will examine Petitioner's rights: Respondents will continue-unchecked-to detain his unlawfully under 8 U.S.C. § 1226(a) without due process.

40. Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to release Petitioner from detention within 10 days unless Respondents schedule a hearing before an IJ where: (1) to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the government cannot meet its burden, the IJ shall order Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond.

41. Petitioner's continued detention is arbitrary and unlawful, and he requests that this Court order his immediate release from ICE custody.

42. On or about September 9, 2025, Petitioner was arrested by ERO and served with a Notice to Appear.

43. On December 31, 2025, the Immigration Judge denied bond, finding Petitioner a flight risk based solely on unsupported assertions by the government. The Immigration Judge failed to meaningfully consider Petitioner's strong equities, including: Three U.S. citizen children; Close family ties in the United States; Employment authorization and tax compliance; Letters of support and financial resources; A consistent history of compliance with immigration proceedings.

44. Petitioner has been detained for approximately eight (8) months. He has a pending appeal with the BIA and more likely it will take months until the BIA's decision.



1 45. During his detention, Petitioner has suffered significant deterioration in his
2 physical and mental health, as well as ongoing harm to his family.

3 46. Respondents continue to detain Petitioner without providing a meaningful
4 opportunity for a constitutionally adequate bond hearing.

5 **JURISDICTION**

6 47. This action arises under the Constitution of the United States and the
7 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

8 48. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
9 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the
10 United States Constitution (Suspension Clause).

11 49. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
12 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All-
13 Writs Act, 28 U.S.C. § 1651

14 50. Federal District courts have jurisdiction to hear habeas claims by non-citizens
15 challenging the lawfulness of their detention. *Zadvydas*, 533 U.S. at 687.

16 51. Federal courts also have federal question jurisdiction, through the
17 Administrative Procedure Act ("APA"), to deem unlawful and to set aside
18 agency action that is arbitrary, capricious, an abuse of discretion or otherwise
19 inconsistent with law. 5 U.S.C. § 706(2)(A). APA claims are cognizable on
20 habeas. 5 U.S.C. § 703, which provides that judicial review of agency action
21 under the APA may be proceeded by any applicable form of legal action,
22 including but not limited to habeas corpus. The APA affords a right of review
23 to a person who is adversely affected or harmed by agency action.
24

25 ///

26 ///

27

28



VENUE

1
2 52. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3)
3 and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within
4 this district in the Otay Mesa Detention Center. Furthermore, a substantial part
5 of the events or omissions giving rise to this action occurred and continue to
6 occur at ICE's Washington Field Office in Chantilly, Virginia, within this
7 division. No real property is involved in this action. 28 U.S.C. §1391(e).

8 **CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

9
10 53. The Court must grant the petition for writ of habeas corpus or issue an order to
11 show cause (OSC) to the Respondents “forthwith” unless Petitioner is not
12 entitled to relief. 28 U.S.C. 2243. If an OSC is issued, the Court must require
13 Respondents to file return “within three days unless good cause additional time,
14 not exceeding twenty days, is allowed.” *Id.*

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

20 55. Petitioner is “in custody” for the purpose of 28 U.S.C. section 2241 because he
21 was arrested by Respondents and remains in their legal and physical custody at
22 the Otay Mesa Detention Center, in California. he is under Respondent’s and
23 their agents’ direct control.

24 **PARTIES**

25
26 56. Petitioner is a native and citizen of Egypt who has been in immigration detention
27 since September 09, 2025. Petitioner was paroled in as an arriving alien on or
28 around April 8, 2005. Petitioner has resided in the United States since 2000.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Petitioner requested review of his custody by an IJ. On January 7, 2026, he was denied bond by an IJ at the Otay Mesa Immigration Court because of flight risk. 57. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego, CA. 58. Respondents seek to keep Petitioner detained without providing a meaningful opportunity to seek a bond hearing, in violation of due-process requirements. See 8 U.S.C. § 1226(a). 59. Respondents cannot evade constitutional requirements. The U.S. Constitution guarantees Petitioner the same due-process protections available to his at the time he filed his application for relief, including freedom from arbitrary and indefinite detention.

LEGAL FRAMEWORK

62. Freedom from physical detention lies at the core of the liberty protected by the Due Process Clause. Noncitizens within the United States are entitled to due process protections, including the right to challenge the legality of their detention. 63. Even where detention is authorized by statute, it remains subject to constitutional limitations. Prolonged detention without adequate procedural safeguards violates due process. 64. The constitutionality of Petitioner’s detention is governed by the balancing test set forth in *Mathews v. Eldridge*, which considers: The private liberty interest at stake; the risk of erroneous deprivation; and the government’s interest. All three factors weigh strongly in favor of requiring a bond hearing in this case.

///



CLAIMS FOR RELIEF

GROUND ONE

**VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE
PROCESS- FAILURE TO PROVIDE CONSTITUTIONALLY
ADEQUATE PROCEDURAL SAFEGUARDS**

- 1
2
3
4
5 67.The allegations in the above paragraphs are realleged and incorporated herein.
6 68.Due process requires that continued civil detention be justified through a fair
7 procedure.
8 69.At a constitutionally adequate bond hearing: the government must bear the
9 burden of proof; the burden must be clear and convincing evidence; the
10 adjudicator must consider alternatives to detention; the adjudicator must evaluate
11 ability to pay and conditions of release.
12 70.Petitioner has been denied such a hearing.
13 71.Despite substantial evidence demonstrating that he is not a flight risk or danger
14 and strong community ties Respondents continue to detain him without
15 meaningful review.
16 72.This lack of procedural safeguards renders his detention unconstitutional.
17 73. Likewise, Petitioner has due process rights to challenge their detention.
18 *Zadvydas v. Davis*, 533 U.S. 678, 693, 695 (2001) (while noncitizens outside
19 the United States’ “geographic borders” lack constitutional protections, all
20 “persons” within them are protected by the Due Process Clause, regardless of
21 immigration status); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205-06 (9th
22 Cir. 2022) (though constitutional rights of citizens and noncitizens “are not
23 coextensive,” noncitizens are entitled to due process, including to challenge
24 detention pending proceedings).
25 74.As the Ninth Circuit held, the Due Process Clause applies to noncitizens
26 regardless of whether they are “seeking admission” or are “admitted” under
27
28



1 immigration law. *Wong v. United States*, 373 F.3d 952, 973 (9th Cir. 2004),
2 abrogated on other grounds by *Wilkie v. Robbins*, 551 U.S. 537 (2007); see also
3 *Padilla v. U.S. Immigr. & Customs Enft*, 704 F. Supp. 3d 1163, 1171 (W.D.
4 Wash. 2023). The Due Process Clause allows Petitioner to challenge his
5 detention.

6 75. Petitioner challenges his deprivation of liberty and detention, not the adequacy
7 of the procedures the immigration laws afford his “with respect to admission.
8 Petitioner solely challenging his detention and revocation of parole, and he is
9 not bringing a constitutional claim with respect to the procedures governing his
10 legal admission into the United States.

11 76. To the extent Respondent takes the extraordinary position that Petitioner has no
12 due process rights at all, that is unsupported by law and would have gruesome
13 practical consequences: “If excludable [noncitizens] were not protected by even
14 the substantive component of constitutional due process, ... we do not see why
15 the United States government could not torture or summarily execute them. ...
16 [W]e conclude that government treatment of excludable [noncitizens] must
17 implicate the Due Process Clause of the Fifth Amendment.”. *Rosales-Garcia v.*
18 *Holland*, 322 F.3d 386, 412 (6th Cir. 2003) (en banc); see also *Jean v. Nelson*,
19 472 U.S. 846, 874 (1985) (Marshall, J., dissenting) (“[T]he principle that
20 unadmitted [noncitizens] have no constitutionally protected rights defies
21 rationality. Under this view, the Attorney General, for example, could invoke
22 legitimate immigration goals to justify a decision to stop feeding all detained
23 [noncitizens] Surely, we would not condone mass starvation.”). Thus, there
24 is no question that Petitioner has the right to challenge the constitutionality of
25 his prolonged detention under the Due Process Clause of the Fifth Amendment
26 of the Constitution.
27
28



1 77. The relief Petitioner is entitled to is not limited to a bond hearing; Petitioner has
2 a protected liberty interest in remaining out of custody *See, e.g., Pinchi*, 2025
3 WL 2084921, at *4 (“[Petitioner’s] release from ICE custody after his initial
4 apprehension reflected a determination by the government that he was neither a
5 flight risk or a danger to the community, and [Petitioner] has a strong interest in
6 remaining at liberty unless he no longer meets those criteria.”); *Noori*, 2025 WL
7 2800149, at *10 (“Petitioner is not an “arriving” noncitizen but one that has
8 [been] present in our country over a year. This substantial amount of time
9 indicates he is afforded the Fifth Amendment’s guaranteed due process before
10 removal.”); *Matute v. Wofford*, No. 25-cv-1206-KES-SKO (HC), 2025 WL
11 2817795, at *5 (E.D. Cal. Oct. 3, 2025) (finding petitioner had a protected liberty
12 interest in his release).

13 78. Courts throughout this Circuit granted Motion to Enforce Judgment after
14 Petitioner was **unreasonably deemed a flight risk after a bond hearing**. *See,*
15 *e.g., Tiboko-Tfih v. Noem* (3:26-cv-01215).

16 79. Courts throughout this Circuit have repeatedly held that prolonged immigration
17 detention without a bond hearing violates due process. *See, e.g., Vikas Kumar*
18 *v. Christopher Larose, Warden, Otay Mesa Detention Center et al.*, 25-CV-3796
19 JLS (DDL); *Aigul Kazybayeva v. Warden, Otay Mesa Detention Center* 3:26-
20 cv-00421-GPC-MMP; *Dariya Karmamoldoyeva v. Warden, Otay Mesa*
21 *Detention Center* 3:26-cv-00423-GPC-MSB; *Dugar Dambaev v. Warden,*
22 *Imperial Detention Center* 26-cv-1182-JO-SBC; *Roman T. v. Warden, Golden*
23 *State Annex Detention Facility* 1:26-cv-02385-TLN-JDP

24 80. Likewise, in *Liping Zhao V. Christopher J. Larose* 26-cv-1285-JES-DDL-
25 **(granting a writ of habeas corpus releasing petitioner from custody to the**
26 **conditions of his preexisting parole on due process grounds)**.
27
28

SECOND PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY RELIEF



1 81. Furthermore, relief was granted in similar matter. *See Doe v. Becerra*, 787 F.
2 Supp. 3d 1083, 1089 (E.D. Cal. 2025); *Duong v. Kaiser*, --- F. Supp. 3d ---, 2025
3 WL 2689266, at *7–10 (N.D. Cal. 2025); *Pinchi*, 2025 WL 2084921, at *5;
4 *Gonzalez Salazar*, 2025 WL 3063629, at *6; *Abdul Kadir v. Larose*, Case No.:
5 25cv1045-LL-MMP, 2025 WL 2932654, at *6 (S.D. Cal. Oct. 15, 2025); *Matute*
6 *v. Wofford*, No. 1:25-cv-01206-KES-SKO (HC), 2025 WL 2495767, at *8 (E.D.
7 Cal. Oct. 3, 2025).

8 82. ICE has violated Petitioner's due process rights by revoking Petitioner's
9 parole, without providing him a reason for revocation or giving an opportunity
10 being heard.

11 83. Likewise, this lack of procedural safeguards for failure to provide adequate bond
12 hearing renders his detention unconstitutional.

13 84. As a remedy, this Court should conduct its own review of Petitioner's custody
14 or, at least, order ICE to review Petitioner's custody under the standard
15 articulated in ICE policy.

16
17 **GROUND TWO**

18 **Mandatory detention is subject to constitutional limits-Prolonged**
19 **Detention**

20 83. The allegations in the above paragraphs are realleged and incorporated herein.

21 84. Petitioner's continued detention without a bond hearing violates the Fifth
22 Amendment.

23 85. Petitioner has a fundamental liberty interest in freedom from physical restraint.
24 That interest is substantial and ongoing.

25 86. The risk of erroneous deprivation is exceptionally high because Petitioner has
26 not received a constitutionally sufficient hearing before a neutral
27 decisionmaker. No mechanism currently exists to test whether his continued
28 detention is justified.



1 87. The government's interest in avoiding such a hearing is minimal. Providing a
2 bond hearing imposes little administrative burden while ensuring
3 constitutionally required protections.

4 88. Under the Due Process Clause, prolonged detention, especially approaching or
5 exceeding several months, requires an individualized determination of
6 necessity.

7 89. "Freedom from imprisonment-from government custody, detention, or other
8 forms of physical restraint-lies at the heart of liberty [Due Process Clause]
9 protects." *Zadvydas*, 533 U.S. at 690.

10 90. Petitioner has an interest in remaining with his community, working and
11 continuing the process of seeking cancellation of removal and I-130 petition
12 adjudication. See *Morrissey*, 408 U.S. 471 at 482 ("Subject to the conditions of
13 his parole, he can be gainfully employed and is free to be with family and friends
14 and to form the other enduring attachment of normal life.")

15 91. The risk of an erroneous deprivation of such interest is high as ICE has violated
16 Petitioner's due process rights by revoking Petitioner's parole, without providing
17 him a reason for revocation. Since DHS's initial determination that Petitioner
18 should be released because he posed no danger to the community and was not at
19 flight risk, there is no evidence that these findings have changes. See *Saravia v.*
20 *Sessions*, 280 F. Supp. 3d 1168, 1760 (N.D. Cal 2017).

21 92. Government's interest in detaining Petitioner without notice, reasoning, and a
22 hearing is "low." See *Pinchi*, 2025 WL 2084921, at *5; *Matute*, 2025 WL
23 2817795, at *6; *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22,
24 2019) ("If the government wishes to re-arrest [Petitioner] at any point, it has the
25 power to take steps toward doing so; but its interest in doing so without a hearing
26 is low."). Respondents fail to point to any burdens on the government if it were
27
28



1 to have provided proper notice, reasoning, and a pre-deprivation hearing.

2 93. Therefore, because Respondents detained Petitioner by revoking his parole in
3 violation of the Due Process Clause, his detention is unlawful. *See, e.g., Alegria*
4 *Palma v. Larose et al.*, No. 25-cv-1942 BJC (MMP), slip op. at 14 (S.D. Cal.
5 Aug. 11, 2025) (granting a TRO based on a procedural due process challenge to
6 a revocation of release on recognizance without a pre-deprivation hearing);
7 *Navarro Sanchez*, 2025 WL 2770629, at *5 (granting a writ of habeas corpus
8 releasing petitioner from custody to the conditions of his preexisting parolee on
9 due process grounds).

10 94. Government's actions denied Petitioner of his due process rights. Therefore, his
11 continued detention violates 8 U.S.C. § 1231(a)(6), and he must be immediately
12 released.

13 95. Furthermore, Petitioner is challenging his detention on constitutional grounds,
14 not statutory grounds. Notwithstanding the fact that he is being detained pursuant
15 to section 1226(a), Petitioner's detention is unequivocally subject to
16 Constitutional limits. The Supreme Court has not precluded noncitizens from
17 bringing as-applied constitutional challenges to their mandatory detention.
18 Respondent correctly states: *Jennings v. Rodriguez*, 583 U.S. 281 (2018) "did not
19 explicitly address constitutionality arguments." U.S. Likewise, *While in Demore*
20 *v. Kim*, 538 U.S. 510 (2003) the Supreme Court rejected a facial challenge to
21 mandatory detention under § 1226(c), the Supreme Court has explicitly
22 recognized the availability of judicial review over as-applied challenges to
23 detention, including mandatory detention. *See, e.g., Nielsen v. Preap*, 586 U.S.
24 392, 420 (2019); *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J.,
25 concurring).
26
27
28



1 96. Furthermore, Petitioner's continued detention has become unreasonable because
2 his removal is not reasonably foreseeable. Therefore, his ongoing confinement
3 violates 8 U.S.C. § 1231(a)(6), and he must be released.

4 97. On April 20, 2026, the IJ denied Petitioner's Application for Cancellation of
5 Removal and on April 28, 2026, Petitioner timely appealed to the BIA.

6 98. BIA's final decision may end up at least six months, which is **one year after**
7 **detention.**

8 99. Petitioner is challenging his prolonged detention on constitutional grounds, not
9 statutory grounds. Notwithstanding the fact that he is being detained pursuant to
10 section 1226(a), Petitioner's detention is unequivocally subject to Constitutional
11 limits. The Supreme Court has not precluded noncitizens from bringing as-
12 applied constitutional challenges to their mandatory detention. Respondent
13 correctly states: *Jennings v. Rodriguez*, 583 U.S. 281 (2018) "did not explicitly
14 address constitutionality arguments." U.S. Response at 3. While in *Demore v.*
15 *Kim*, 538 U.S. 510 (2003) the Supreme Court rejected a facial challenge to
16 mandatory detention under § 1226(c), the Supreme Court has explicitly
17 recognized the availability of judicial review over as-applied challenges to
18 detention, including mandatory detention. See, e.g., *Nielsen v. Preap*, 586 U.S.
19 392, 420 (2019); *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J.,
20 concurring). Courts in this district have accordingly found constitutional limits
21 to apply to immigration detention, irrespective of the underlying detention
22 authority. See, e.g., *Gebregziabher v. Marrero*, Case 3:26-cv-02004-JES-MSB;
23 *Liu v. Larose*, Case 3:26-cv-01546-JO-MMP; *Synthia Engonwei Munoh*
24 *Warden, Otay Mesa Detention Center*, Case 26-CV-1773 JLS (DDL); *Fuad*
25 *Abdulielil Ahmed V. Sixto Marrero* Case 26-cv-01170-BAS-MMP; *Maksim*
26 *Lastin v. Warden, Imperial Regional Detention Facility* 26-cv-974-RSH-DDL;
27
28



1 Natalia Lastina V. Warden of Imperial Regional Detention Facility 3:26-cv-
2 00975-TWR-VET; Karakhanyan v. Warden of Otay Mesa Detention Center-
3 3:25-cv-03454-JO-MMP; Romik Parunakyan v. Warden of Otay Mesa Detention
4 Center 25-cv-3739-LL-MSB; L.S. v. Warden of Otay Mesa Detention Center;
5 M.F. v. Warden of Otay Mesa Detention Center 3:25-cv-3599-CAB-MSB;
6 Miganush Ogandzhanyan V. Warden Of Otay Mesa Detention Center 26cv0093
7 DMS MSB; Ter Ogannisian Geros v. Warden Of Otay Mesa Detention Center
8 26-CV-91 JLS (AHG); Emanuel Ter-Ogannisian v. Warden Of Otay Mesa
9 Detention Center 26cv0124 DMS JLB; L.S. v. Warden of Otay Mesa Detention
10 Center; Naira Kirakosyan v. Warden of Otay Mesa Detention Center 26-cv-315-
11 JO-DDL. (granting a writ of habeas corpus after Court determined that
12 Petitioner's detention without a bond hearing has become unreasonable and
13 violates due process).

14 100. This Court should so hold as well.

15 101. Petitioner has now been detained for eight (8) months and with no indication of
16 when relief might be available. This prolonged and indeterminate detention is
17 arbitrary, excessive in duration, and unconstitutional.
18

19
20 **GROUND THREE**

21 **ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE**
22 **ADMINISTRATIVE PROCEDURE ACT**

23 **Petitioner's ongoing and unreviewed detention violates his constitutional due**
24 **process rights and cannot continue without a bond hearing**

25 102. The allegations in the above paragraphs are realleged and incorporated herein.
26 Courts must "hold unlawful and set aside agency action" that is "arbitrary,
27 capricious, an abuse of discretion, or otherwise not in accordance with law."
28 5 U.S.C. § 706(2)(A).



1 103. The Ninth Circuit in Singh stressed that “it is improper to ask the individual to
2 share equally with society the risk of error when the possible injury to the
3 individual deprivation of liberty is so significant[.]” See Singh, 638 F. 3d at
4 1205; Black, 103 F.4th at 157-58 (observing that where “an individual’s liberty
5 is at stake, the Supreme Court has consistently used [clear and convincing]
6 evidentiary standard for continued detention”) (internal citations omitted); id.
7 at 159 (reiterating that the government bears the burden of meeting this standard
8 even where an individual is detained pursuant to mandatory detention). This
9 Court should, too, apply the heavy burden on the government to justify
10 Petitioner’s continued civil detention without a bond hearing.

11 104. The Mathews test is the appropriate test for this Court to use to evaluate the
12 constitutionality of Petitioner’s prolonged detention. Mathews v. Eldridge, 424
13 U.S. 319 (1976). The Mathews test is routinely applied by district courts across
14 the Ninth Circuit, including this Court, to determine whether due process
15 requires neutral review of a noncitizen’s custody. Rodriguez Diaz v. Garland,
16 53 F.4th 1189, 1206-07 (9th Cir. 2022) (noting that Mathews is a “flexible test”
17 broad enough to account for government interests when evaluating due process
18 claims in the immigration detention context); see, e.g., Abduraimov, 2025 WL
19 2912307 and Maksim, 2025 WL 2879328. Respondents offer “no valid
20 alternative to the Mathews framework nor [do they] demonstrate[e] that
21 Mathews is inapplicable here.” Jensen v. Garland, No. 5:21-c-v- 01195-CAS
22 (AFM), 2023 WL 3246522 (C.D. Cal. May 3, 2023).

23
24 105. The Mathews test for procedural due process claims balances: (1) the private
25 interest threatened by governmental action; (2) the risk of erroneous deprivation
26 of such interest and the value of additional or substitute safeguards; and (3) the
27 government interest. 424 U.S. at 335. Each Mathews factor weighs in
28



1 Petitioner’s favor. Petitioner’s detention of 8 months and counting without any
2 neutral review is a violation of her procedural due process rights and requires
3 this court to order a hearing before a neutral adjudicator to evaluate whether the
4 government can justify her ongoing detention.

5 106. Petitioner has a profound liberty interest. Petitioner has a weighty interest in her
6 own liberty, the core privacy interest at stake here. *Zadvydas*, 533 U.S. at 690
7 (“Freedom from imprisonment...lies at the heart of the liberty [the Due Process
8 Clause] protects.”). Petitioner’s 8 months of detention limit of the brief
9 detention contemplated in *Demore*, 538 U.S. at 530-31. See also *Lopez v.*
10 *Garland*, 631 F. Supp. 3d 870, 880 (E.D. Cal. 2022) (“As detention continues
11 past a year, courts become extremely wary of permitting continued custody
12 absent a bond hearing.”) (internal citation omitted).

13 107. The second prong of the *Mathews* test, the risk of erroneous deprivation of such
14 interest through the procedures used, and the probable value of additional
15 procedural safeguards, also weighs heavily in Petitioner’s favor. 424 U.S. at
16 335. “[T]he risk of an erroneous deprivation of liberty in the absence of a
17 hearing before a neutral decisionmaker is substantial.” *Diouf v. Napolitano*
18 (*Diouf II*), 634 F.3d 1081, 1092 (9th Cir. 2011). When a petitioner “does not
19 have a statutory right to a bond hearing or the right to seek additional bond
20 hearings. . . the risk of erroneous deprivation as Petitioner’s time in detention
21 lengthens is not insignificant,” and the probable value of additional procedural
22 safeguards is exceedingly high. *Eliazar G.C.*, No. 1:24-CV-01032-EPG-HC,
23 2025 WL 711190, at *7 (E.D. Cal. Mar. 5, 2025); *Tonoyan v. Andrews*, 2025
24 WL 3013684 at *4 (“Given that Petitioner has been held without a bond hearing
25 for almost a year, and it is not clear when detention will end, the risk of
26 erroneous deprivation weighs in favor of granting a bond hearing.”). In this
27
28



1 case, Petitioner has been deprived of her liberty in civil detention for 8 months.
2 Because he is subject to mandatory detention pursuant to section 1226(a)), he
3 does not have the statutory right to request a bond hearing and therefore lacks
4 access to an appropriate procedural safeguard that would protect against the risk
5 of erroneous deprivation, absent intervention from this Court.

6 108. Here, a bond hearing before a neutral decisionmaker is the only appropriate
7 procedural safeguard to protect against the risk of erroneous deprivation
8 because it provides both the noncitizen and the government with an opportunity
9 to present witness testimony or evidence and be heard before a neutral body.
10 Anything less would not comport with due process. In particular, “the
11 discretionary parole system available to § 1226(a) detainees are not sufficient
12 to overcome the constitutional concerns raised by prolonged mandatory
13 detention because the parole process is purely discretionary, and its results are
14 unreviewable by IJs and “release decisions are based on humanitarian
15 considerations and the public interest.” *Abduraimov*, 2025 WL 2912307, at *6
16 (citing *Rodriguez v. Robbins (Rodriguez II)*, 715 F.3d 1127, 1144 (9th Cir.
17 2013) (internal quotations omitted). The parole process “is not a
18 constitutionally adequate substitute for a bond hearing particularly since it does
19 not test the necessity of detention, does not afford the noncitizen an in-person
20 adversarial hearing before a neutral decisionmaker where he or she may present
21 witness testimony or evidence, does not require the ICE detention officer [to]
22 make any factual findings or provide their reasoning, and there is no apparent
23 right to an administrative appeal.” *Abduraimov*, 2025 WL 2912307, at *6
24 (citing *Padilla v. U.S. Immigr. & Customs Enft*, 704 F. Supp. 3d 1163, 1174
25 (W.D. Wash. 2023).
26

27 109. Any internal review of Petitioner’s detention or request for discretionary parole
28



1 by DHS cannot satisfy the requirements for due process because DHS is the
2 very authority that is detaining him. Where a custody review is conducted by
3 the very same agency that is detaining the individual, that agency reviewing its
4 own actions cannot be held to a neutral standard. As such, Petitioner must be
5 afforded a hearing before a neutral arbiter in order for her ongoing, prolonged
6 detention to comply with due process.

7 110. Contrary to Respondent’s assertions, Petitioner faces prolonged detention for
8 an indefinite period of time pending the final adjudication of his cancellation of
9 removal and I-130 petition adjudication. This Court has recognized that “it is
10 difficult to ascertain an endpoint to removal proceedings, but it is clear
11 proceedings could take a substantial amount of time,” and “[i]t is unknown
12 when the IJ will decide the application for relief.” *Idiev v. Warden, et al.*, No.
13 1:25-CV-01030-SKO (HC), 2025 WL 3089349, at *5 (E.D. Cal. Nov. 5, 2025).
14 Even after the IJ issues a decision, each party “has other avenues available for
15 relief including an appeal to the BIA and a petition for review to the Ninth
16 Circuit Court of Appeals.” *Id.* See, e.g., *Abduraimov*, 2025 WL 2912307
17 (where the government appealed the IJ’s grant of asylum and the BIA remanded
18 back to the IJ); *A.E.*, 2025 WL 1424382 (where the government appealed the
19 IJ’s grant of asylum, the IJ denied all relief on remand, and the noncitizen
20 appealed to the BIA).
21

22 111. Here, on April 20, 2026, the IJ denied Petitioner’s Application for Cancellation
23 of Removal and on April 28, 2026, Petitioner timely appealed to the BIA.

24 112. BIA’s final decision may end up at least six months, which is **one year after**
25 **detention.**

26 113. Furthermore, Petitioner’s removal proceedings will continue for many months
27 while his I-130 application is adjudicated by the USCIS.
28



1 114. Petitioner has been in detention for 8 months, and Petitioner’s removal is not
2 reasonably foreseeable, as it depends entirely on the outcome of his Application
3 for Cancellation of Removal appeal and any subsequent review that may follow.
4 Accordingly, his continued detention is arbitrary, prolonged, and
5 constitutionally unreasonable.

6 115. Due to prolonged detention, Respondent has been experiencing physical and
7 mental issues. There is no indication as to how long the appeal will take, and/or
8 depending on outcome of the appeal, Petitioner might stay in custody longer.

9 116. Because “it is not clear when detention will end, the risk of erroneous
10 deprivation weighs in favor of granting a bond hearing.” A.E., 2025 WL
11 1424382, at *5; Doe v. Andrews, No. 1:25- CV-00506-SAB-HC, 2025 WL
12 2590392, *7 (E.D. Cal. Sept. 8, 2025) (noting that “[a]lthough future events are
13 difficult to predict, the [c]ourt nevertheless finds that...possible remand to the
14 immigration court for further factfinding or possible judicial review by the
15 Ninth Circuit will be sufficiently lengthy such that [the delay] factor weighs in
16 favor of Petitioner”), report and recommendation adopted, No. 1:25-CV-00506-
17 KES-SAB (HC), 2025 WL 2896218 (E.D. Cal. Oct. 11, 2025); Abduraimov,
18 2025 WL 2912307, *8 (“appeal to BIA and potential Ninth Circuit review ‘may
19 take up to two years or longer’ and ‘favors granting petitioner a bond hearing’)
20 (citing Banda v. McAleenan, 385 F. Supp. 3d 1099, 1119 (W.D. Wash. 2019)).
21 The risk of erroneous deprivation of Petitioner’s liberty interest and the
22 probably value of a bond hearing is exceptionally high. Therefore, the second
23 Mathews factor also weighs in favor of granting Petitioner a bond hearing.
24

25 117. The third Mathews factor also supports Petitioner: the government interest is
26 weak here because the interest at stake “is the ability to detain Petitioner without
27 providing her a bond hearing, not whether the government may continue to
28



1 detain him” at all. *Lopez-Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal.
2 Jan. 29, 2019) (emphasis in original). As the government has conceded in
3 similar cases, the cost of providing such a bond hearing is minimal. *Id.*; *Singh*
4 *v. Barr*, Case No. 18-cv-2471-GPC-MSB, 2019 WL 4168901, at *12 (“The
5 government has not offered any indication that a second bond hearing would
6 have outside effects on its coffers.”); *Marroquin Ambriz v. Barr*, 420 F. Supp.
7 3d 953, 964 (N.D. Cal. 2019) (noting in the context of a §1226(a) detention, the
8 parties did not contest “that the cost of conducting a bond hearing, to determine
9 whether the continued detention of Petitioner is justified, is minimal”). Holding
10 a hearing at which Respondents must justify Petitioner’s continued detention
11 thus actually “promotes the Government’s interest one we believe to be
12 paramount in minimizing the enormous impact of incarceration in cases where
13 it serves no purpose.” See *Velasco-Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir.
14 2020) (emphasis added); *id.* at n.11; *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33
15 (1st Cir. 2021) (“[L]imiting the use of detention to only those noncitizens who
16 are dangerous or a flight risk may save the government, and therefore the public,
17 from expending substantial resources on needless detention.”).

18
19 118. In sum, there is no question that all three Mathews factors favor Petitioner.
20 Contrary to Respondent’s claim, Petitioner’s prolonged detention does not pass
21 constitutional muster and requires that this Court immediately order her a bond
22 hearing.

23 119. At a bond hearing, the government must bear the burden of justifying
24 Petitioner’s ongoing and prolonged detention. Where a custody hearing is
25 warranted as a procedural safeguard against unreasonably prolonged detention,
26 it is well established that the government bears the burden of justifying
27 continued confinement by clear and convincing evidence. *Singh v. Holder*, 638
28



1 F.3d 1196, 1204 (9th Cir. 2011) (“[D]ue process places a heightened burden of
2 proof on the State in civil proceedings in which the individual interests at
3 stake...are both particularly important and more substantial than mere loss of
4 money.”). See e.g. Lopez, 631 F. Supp. 3d 870, n.3 (specifically noting that
5 Singh provided guidance as to the procedural requirements for bond hearings
6 and that the government must prove by clear and convincing evidence that a
7 noncitizen is a flight risk. or danger to the community to justify denying bond)
8 (internal quotations omitted); Eliazar G.C., 2025 WL 711190, *10 (E.D. Cal.
9 Mar. 5, 2025) (stating that the Court will follow the “overwhelming majority of
10 courts” to hold that the government must justify continued mandatory detention
11 by clear and convincing evidence that the noncitizen is a flight risk or a danger
12 to the community); Maksim, 2025 WL 2879328, * 6 (same); Abduraimov, 2025
13 WL 2912307, *11 (same); Idiev, 2025 WL 3089349, *7 (same); Tonoyan, 2025
14 WL 3013684, *5 (same).

15
16 120. The Ninth Circuit in Singh stressed that “it is improper to ask the individual to
17 share equally with society the risk of error when the possible injury to the
18 individual—deprivation of liberty— is so significant[.]” See Singh, 638 F. 3d
19 at 1205; Black, 103 F.4th at 157-58 (observing that where “an individual’s
20 liberty is at stake, the Supreme Court has consistently used [clear and
21 convincing] evidentiary standard for continued detention”) (internal citations
22 omitted); id. at 159 (reiterating that the government bears the burden of meeting
23 this standard even where an individual is detained pursuant to mandatory
24 detention). This Court should, too, apply the heavy burden on the government
25 to justify Petitioner’s continued civil detention without a bond hearing.

26 121. Moreover, at the evidentiary hearing, the adjudicator must consider alternatives
27 to detention and Petitioner’s financial circumstances in determining whether
28



1 further detention is warranted and the conditions of her release. See, e.g.,
2 Hernandez, 872 F.3d at 994 (“If the government is setting monetary bonds to
3 ensure appearance at future proceedings, there is no legitimate reason for it not
4 to consider the individual’s financial circumstances and alternative conditions
5 of release.”).

6 122. Thus, due process and Ninth Circuit precedent require that the government bear
7 the burden of justifying Petitioner’s ongoing and prolonged detention by clear
8 and convincing evidence.

9 123. Moreover, at the evidentiary hearing, the adjudicator must consider alternatives
10 to detention and Petitioner’s financial circumstances in determining whether
11 further detention is warranted and the conditions of his release. See, e.g.,
12 Hernandez, 872 F.3d at 994 (“If the government is setting monetary bonds to
13 ensure appearance at future proceedings, there is no legitimate reason for it not
14 to consider the individual’s financial circumstances and alternative conditions
15 of release.”).

16 124. Thus, due process and Ninth Circuit precedent require that the government bear
17 the burden of justifying Petitioner’s ongoing and prolonged detention by clear
18 and convincing evidence.

19 125. Respondents’ continued detention of Petitioner without individualized review
20 is arbitrary and violates due process.

21 126. Petitioner continues to suffer irreparable harm including deterioration of his
22 physical health, risk of cancer progression, and severe emotional harm to his
23 minor child. These harms cannot be remedied after the fact.

24 127. Petitioner is likely to succeed on the merits because prolonged detention
25 without a constitutionally adequate bond hearing violates clearly established
26 due process principles under Zadvydas and Singh.
27
28



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

128. Additionally, the prolonged and indeterminate nature of his detention now approximately nine months with no clear end renders it excessive and unconstitutional.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:
Petitioner respectfully requests that this Court:

- 1. Issue a Writ of Habeas Corpus ordering Petitioner’s immediate release; OR
- 2. In the alternative, order Respondents to provide a bond hearing within 7 days;
- 3. Require the Government to bear the burden of proof by clear and convincing evidence;
- 4. Declare Petitioner’s detention unconstitutional;
- 5. Award attorneys’ fees and costs;
- 6. Grant any further relief deemed just and proper.

DATED: May 11, 2026

Respectfully submitted



Naira Zohrabyan
Attorney for Petitioner

