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9 UNITED STATES DISTRICT COURT FOR THE
10 SOUTHERN DISTRICT OF CALIFORNIA

11
12
13 Luis Antonio Mendoza Gonzaga,
14
15 Petitioner,

16 vs.

17 CHRISTOPHER J. LAROSE, Senior Warden of
18 Otay Mesa ICE Detention Center; Daniel A.
19 Brightman, Field Office Director of the San Diego
20 Immigration and Customs Enforcement Office;
21 TODD LYONS, Acting Director of United States
22 Immigration and Customs Enforcement;
23 MARKWAYNE MULLIN, Secretary of the United
24 States Department of Homeland Security; TODD
25 BLANCHE, Acting Attorney General of the United
26 States, acting in their official capacities,

27 Respondents.
28

'26CV2941 RFL BJW

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

IMMIGRATION HABEAS CASE

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INTRODUCTION

1. Luis Antonio Mendoza Gonzaga (“Mr. Mendoza” or “Petitioner”) respectfully petitions this Honorable Court for a writ of habeas corpus to remedy his unlawful detention by Respondents (the “Government”). Mr. Mendoza has been detained for the past nine months by Immigration and Customs Enforcement (“ICE”) at a privately-run prison; this prolonged civil detention without a bond hearing violates his due process rights.
2. Petitioner is a citizen of Mexico who came to the U.S. as a child over a decade ago. He was placed in removal proceedings and his case was later closed to allow him to apply for asylum before U.S. Citizenship and Immigration Services (“USCIS”). In 2016, USCIS granted him asylum, in recognition of the serious physical and psychological abuse he suffered from his father and uncle, and the risks he would face if deported. Now 30 years old, Mr. Mendoza has resided in the United States for 13 years. Mr. Mendoza’s mother lives in the San Francisco Bay Area, as does his ten-year-old U.S. citizen son.
3. Last summer, Mr. Mendoza was detained by ICE and given a notice of DHS’ intent to revoke his asylee status based on offenses related to his past reliance on drugs. Despite his strong equities and the prior grant of asylum, Mr. Mendoza has had no neutral review of whether his detention serves a valid civil purpose. His past substance abuse—which developed during his traumatic teenage years—is in remission, but his related convictions prevent him from receiving a bond hearing. Mr. Mendoza, through counsel in San Mateo county, is pursuing vacatur of his state criminal convictions to preserve his asylee status and protect his future in this country. In the meantime, however, there is no administrative remedy for his indefinite and unreviewed detention.
4. Mr. Mendoza’s prolonged detention without a neutral hearing on flight risk or danger violates his right to procedural due process. He asks this Court to issue a writ of habeas corpus and order his release within 14 days, unless the Government schedules a bond hearing before an Immigration Judge (“IJ”) at which the Government must justify his continued detention by clear and convincing evidence.

1 **JURISDICTION**

- 2 5. Mr. Mendoza is detained in the custody of Respondents at the Otay Mesa (“Otay Mesa”)
3 Detention Center in San Diego, California.
- 4 6. Jurisdiction is proper over a writ of habeas corpus pursuant to Art. 1 § 9, cl. 2 of the
5 United States Constitution (the Suspension Clause); 28 U.S.C. § 2241 (habeas corpus);
6 and 28 U.S.C. § 1331 (federal question). This action arises under the Due Process Clause
7 of the Fifth Amendment of the U.S. Constitution, and the Immigration & Nationality Act
8 (“INA”). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
9 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
10 U.S.C. § 1651.
- 11 7. Congress has preserved judicial review of challenges to prolonged immigration detention.
12 *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§
13 1226(e), 1252(b)(9) do not bar review of legal challenges to prolonged immigration
14 detention); *see also id.* at 876 (Breyer, J., dissenting) (“8 U.S.C. § 1252(b)(9) . . . by its
15 terms applies only with respect to review of an order of removal”) (internal quotation
16 marks and brackets omitted).

17 **VENUE**

- 18 8. Venue is proper in this District pursuant to 28 U.S.C. § 2241(a) because this is the district
19 in which Mr. Mendoza is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th
20 Cir. 2024).

21 **PARTIES**

- 22 9. Petitioner, Mr. Mendoza, is currently detained by Respondents at Otay Mesa in San
23 Diego, California. He has been detained since August 1, 2025, without any individualized
24 inquiry into ICE’s justifications for his detention.
- 25 10. Christopher J. LaRose, the Senior Warden at Otay Mesa, is Petitioner’s immediate
26 custodian at the facility where Petitioner is detained. *See Doe*, 108 F.4th at 1194-97.
- 27 11. Daniel A. Brightman is the Field Office Director for the San Diego Field Office of ICE
28 Enforcement and Removal Operations. As such, Respondent Brightman is responsible for

1 overseeing the administration of immigration laws and the execution of immigration
2 enforcement and detention policy within ICE's San Diego Area of Responsibility,
3 including the detention of Petitioner at Otay Mesa. He is named in his official capacity.

4 12. Respondent Todd M. Lyons is the Acting Director of ICE. Respondent Lyons is
5 responsible for ICE's policies, practices, and procedures, including those relating to the
6 detention and removal of immigrants. He is named in his official capacity.

7 13. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security
8 ("DHS"). Respondent Mullin is responsible for overseeing the Department and its sub-
9 agency, ICE, and has ultimate responsibility for the detention of noncitizens in civil
10 immigration custody. He is named in his official capacity.

11 14. Respondent Todd Blanche is the Acting Attorney General of the United States and the
12 head of the Department of Justice ("DOJ"), which encompasses the Board of
13 Immigration Appeals ("BIA") and immigration judges as part of its sub-agency, the
14 Executive Office for Immigration Review ("EOIR"). He is empowered to oversee the
15 adjudication of removal and bond hearings and by regulation has delegated that power to
16 the nation's immigration judges and the BIA. He is named in his official capacity.

17 **EXHAUSTION**

18 15. Mr. Mendoza is not required to exhaust administrative remedies. Exhaustion for habeas
19 claims is prudential, not jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir.
20 2004). The prudential exhaustion requirement may be waived if "administrative remedies
21 are inadequate or not efficacious, pursuit of administrative remedies would be a futile
22 gesture, [or] irreparable injury will result." *Id.* at 1000.






23 16. Administrative remedies would be futile, inadequate, and not efficacious for Petitioner.
24 As an initial matter, Section 1226(c) prohibits the immigration courts from conducting
25 individualized custody hearings for people detained under its terms, which means Mr.
26 Mendoza has no administrative remedy to exhaust. *See Jennings v. Rodriguez*, 138 S.Ct.
27 830, 847 (2018) (holding that 1226(c) mandates detention without a bond hearing until
28 the conclusion of removal proceedings).


1 17. Even if Petitioner had some administrative avenue to pursue, exhausting his
2 constitutional claim there would be futile because the immigration courts and the BIA do
3 not have the authority to rule on constitutional questions. *See Wang v. Reno*, 81 F.3d 808,
4 815-16 (9th Cir. 1996) (per curiam) (“the inability of the INS to adjudicate the
5 constitutional claim completely undermines most, if not all, of the purposes underlying
6 exhaustion”).

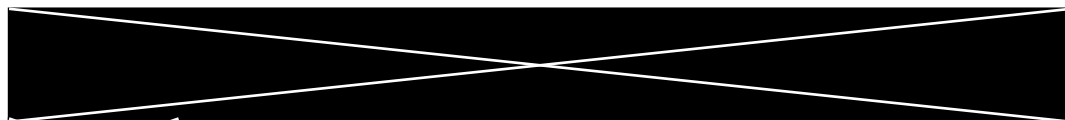
7 **STATEMENT OF FACTS**

8 **Childhood Abuse and Substance Use as a Coping Mechanism**

9 18. Mr. Mendoza was born in Toluca, Mexico. *See* Authenticating Decl. of Counsel at
10 Exhibit (“Exh.”) A, Decl. of Luis Mendoza at ¶ 1. His father abandoned his mother, him,
11 and his sisters when he was very young. *Id.* at ¶ 4. When his father sporadically visited,
12 he would lose his temper and beat Mr. Mendoza, his mother, and his siblings. *Id.*

13 19. Throughout his childhood, Mr. Mendoza also suffered abuse from his paternal uncle, 
14  an alcoholic who lived nearby. Exh. A at ¶ 6. When  was sober, he
15 would insult Mr. Mendoza and hit him all over his body. *Id.* When he was drunk, 
16  threatened to kill petitioner with the knife he carried at all times, often putting
17 the knife to petitioner’s neck and cutting him on the finger at least once. *Id.* He also
18 stabbed Mr. Mendoza’s mother in the breast once. *Id.* at ¶ 7. Police never intervened in
19 what they viewed as familial issues. *Id.*


20 20. Mr. Mendoza remains afraid of his uncle, who he has been told is linked to drug
21 traffickers and cartels in Mexico. Exh. A at ¶¶ 8, 9. Family members told him that 

22 

23  *Id.* at ¶ 8.

24
25 21. Due to the constant physical and emotional abuse from his uncle, and intermittent abuse
26 from his absent father, Mr. Mendoza felt depressed and thought that his life was not
27 worth living. Exh. A at ¶ 10. He started drinking alcohol at the age of 13 and smoking
28

1 marijuana at 14. *Id.* Mr. Mendoza used alcohol and marijuana to avoid thinking about the
2 abuse and his depression. *Id.*

3 22. Around 2009, Mr. Mendoza's mother left Mexico. Exh. A at ¶ 11. He went to live with
4 his sisters. *Id.* After his sisters could no longer take care of him, Mr. Mendoza went to
5 live with his paternal grandmother. *Id.* Unfortunately, his uncle  also lived
6 with his grandmother. *Id.* Once his grandmother died, Mr. Mendoza was left alone with
7 his uncle and was in danger. *Id.* Due to the imminent threat of danger from uncle, Mr.
8 Mendoza's family decided to send him to the U.S. for his own safety. *Id.* at ¶ 12; *see also*
9 Exh. I, Letter from cousin, Alexis Estrada Mendoza (describing "extremely challenging"
10 journey to U.S.).


11 **Arrival to the U.S. and Immigration Status**

12 23. Mr. Mendoza came to the U.S. in June 2013 as an unaccompanied minor and was placed
13 in removal proceedings. On January 13, 2016, USCIS granted him asylum in the United
14 States. Exh. C, Notice of Intent to Terminate Asylum Status.¹

15 24. When Mr. Mendoza arrived in the U.S., he rejoined his mother in San Francisco. Exh. A
16 at ¶ 13. Once he was far from his uncle and bad influences in Toluca, he stopped drinking
17 and supported his family. *Id.*; Exh. I, Letter from cousin, Aaron Gomez ("[H]e
18 consistently guided and motivated me to follow an academic path."); Letter from aunt
19 Amparo Mendoza ("I own a cleaning company, and Luis has helped me many times[.]").
20 Mr. Mendoza went to school for a half a year, but it proved difficult to learn English and
21 simultaneously work to support himself and his family. Exh. A at ¶ 14.

22 25. Mr. Mendoza was never able to go to therapy to deal with his persistent depression and
23 frequent nightmares about his father and uncle. *Id.* at ¶ 15. His family did not have the
24 capacity to provide him with emotional support. *Id.*

27 ¹ Mr. Mendoza's counsel has filed a request with USCIS through the Freedom of
28 Information Act ("FOIA") to obtain a complete copy of his file, including information about his
grant of asylum. However, he has yet to receive the results of that request.

1 26. When Mr. Mendoza's son Dylan was born in 2016, it was a source of joy and strength for
2 him. Exh. A at ¶ 16. He had two jobs, supported his son, and helped his son's mother. *Id.*
3  in 2017, he became very depressed and
4 relapsed into substance use. *Id.* At an extremely low point in his life in 2017, a friend told
5 Mr. Mendoza that if he wanted to be happy, he could try some methamphetamine. *Id.* at ¶
6 17. Mr. Mendoza tried it and felt momentary relief, leading him to become dependent on
7 drugs.

8 **Prior Contact with the Criminal Legal System Related to Substance Use**

9 27. Mr. Mendoza's contacts with the criminal legal system are tied to his reliance on
10 substances as a way to cope with untreated trauma symptoms. Exh. A at ¶¶ 10, 15, 27.
11 Since 2017, Mr. Mendoza has suffered misdemeanor convictions, including drug
12 possession, vandalism, joyriding, and theft of identifying information. *Id.* at ¶¶ 19-22, 24.

13 28. Mr. Mendoza also has felony convictions for flight from a peace officer, possession of
14 stolen property, and drug possession for sale. (Exh. A at ¶¶ 20, 23.)

15 29. Since 2024, Mr. Mendoza has been sober from all substances. Exh. A at ¶ 26. He regrets
16 the poor choices he made during his period of drug dependence, and has resolved to do
17 better for the sake of his mother and son. *Id.* at ¶ 28 ("I now want to be the son she
18 deserves...I want the opportunity to mend [my] relationship [with my son]."); Exh. E,
19 Mental health progress note from prison psychiatrist.

20 **Rehabilitation in Prison and Direct Transfer to ICE**

21 30. Mr. Mendoza was incarcerated between September 2024 and August 1, 2025. While in
22 prison, he took advantage of opportunities for substance abuse treatment. Exh. A at ¶¶
23 26-28. Through an addiction program, he attended therapy sessions. *Id.* at ¶ 27. Although
24 treatment options were limited in prison, Mr. Mendoza was sober and able to reflect on
25 his life choices. *Id.* He also has subsequently spoken more with his mother about the
26 abuse that both of them suffered. Mr. Mendoza is deeply committed to making up for lost
27 time with his son, and to not being the absentee father that his own father was, as well as
28 supporting his mother. *Id.*

1 31. Mr. Mendoza has been diagnosed with post-traumatic stress disorder (“PTSD”) and
2 opioid dependence. Exh. E, Medical records from prison discharge; Exh. F, Medical
3 summary from ICE. With treatment, however, Mr. Mendoza has showed steady progress.
4 Upon discharge from prison, his treating psychiatrist noted his protective factors,
5 including an “ability to seek support/cope with stress and emotional distress/control
6 impulses, [his] sense of hope/responsibility to family, [and] positive social or therapeutic
7 relationships.” Exh. E.

8 32. When Mr. Mendoza was released from state prison on August 1, 2025, he was transferred
9 directly to ICE custody. He has remained in ICE custody at Otay Mesa since then without
10 any neutral review of his custody status.

11 33. Mr. Mendoza’s 2022 drug conviction renders him subject to the mandatory detention
12 provision, 8 U.S.C. § 1226(c). As a statutory matter, he will never receive a bond hearing
13 to determine if his detention is warranted on flight risk or danger grounds.

14 **Procedural History of Removal Proceedings**

15 34. ICE initiated removal proceedings on August 1, 2025, charging Mr. Mendoza with
16 removability under INA 212(a)(6)(A)(i). *See* Exh. B, Notice to Appear.

17 35. On September 15, 2025, DHS provided to the Immigration Court an undated notice of the
18 agency’s intent to terminate Mr. Mendoza’s asylee status pursuant to 8 CFR § 208.24(f).
19 DHS provided two bases for termination: first, it alleged that Mr. Mendoza’s 2022
20 conviction under California Vehicle Code § 2800.4 constituted a particularly serious
21 crime; and second, it alleged that Mr. Mendoza’s 2022 no contest plea to California
22 Health & Safety Code § 11378 amounted to an aggravated felony. *See* Exh. C, Notice of
23 Intent to Terminate Asylum Status.

24 36. On September 23, 2025, Mr. Mendoza started being represented in removal proceedings
25 by Mr. Hector Vega, Deputy Public Defender from the San Francisco Public Defender’s
26 Office. *See* Exh. K, Declaration of Counsel, Hector Vega. Mr. Mendoza, through counsel,
27 has been diligent in submitting applications for removal relief and meeting evidentiary
28 deadlines imposed by the IJ. *Id.* at ¶¶ 3, 7.

1 37. On March 3, 2026, Mr. Mendoza filed a motion to vacate the pleas that resulted in his
2 2019 and 2022 convictions related to possession of controlled substances through pro
3 bono counsel, Ms. Gabriela Lopez, in San Mateo County. Exh. K at ¶¶ 4-5. The motion
4 for vacatur remains pending, with a next scheduled hearing set for June 8, 2026. *Id.* at ¶
5 5.

6 38. Mr. Mendoza and his counsel have maintained the IJ informed about the progress of his
7 motion for vacatur in San Mateo County. Most recently, on April 15, 2026, the IJ
8 continued the next hearing in Mr. Mendoza’s removal proceedings until May 28, 2026, to
9 allow time for the San Mateo Superior Court to hear and resolve the pending motions for
10 vacatur of the pleas. Exh. K at ¶ 9.

11 39. The resolution of the pending motion for vacatur will determine the forms of relief Mr.
12 Mendoza will seek before the IJ. Exh. K at ¶ 10. Under his particular circumstances, Mr.
13 Mendoza’s removal proceedings before the IJ will extend for months, if not longer,
14 before the agency issues a final decision. *Id.* Appellate proceedings by either party will
15 further extend his detention. *Id.* at ¶ 11.

16 **ICE Detention and Conditions**

17 40. Otay Mesa is a private, for-profit detention center operated by CoreCivic, Inc., which
18 “also runs many state penitentiaries.” *Kydrali v. Wolf*, 499 F.Supp.3d 768, 773 (S.D. Cal.
19 2020) (finding detention at Otay Mesa “indistinguishable from penal confinement”); *Xie*
20 *v. Larose*, No. 3:26-cv-01116-RBM-MMP, 2026 WL 836351, at *4 (S.D. Cal. Mar. 26,
21 2026) (same).

1 41. For years, detained individuals, community members, and elected officials have raised
2 alarm bells about conditions at the facility.² DHS’s own Office of the Inspector General
3 even flagged concerns and noted myriad violations of ICE detention standards.³

4 42. While detained, Mr. Mendoza’s mental and physical health have declined. *See* Exh. A at
5 ¶ 29. He has frequent nightmares that cause him significant stress. *Id.* (“I am being
6 chased, running from danger, being stabbed by people, and being shot at with guns.”).
7 Upon arriving at Otay Mesa, Mr. Mendoza saw a medical professional to obtain
8 medication for these nightmares, but has received no further medical treatment or therapy
9 since. These nightmares combine with anxiety and result in consistently poor sleep.

10 43. Mr. Mendoza feels very stressed and cannot stop thinking about his case and his son.
11 This stress causes him to lose his appetite. He also started taking medication for anxiety
12 and depression, but this worsened his daily nightmares. Overall, indefinite detention has
13 had a deleterious effect on Mr. Mendoza’s mental and physical health. *See* Exh. A at ¶
14 29.

15 LEGAL FRAMEWORK

16 A. Due Process Does Not Permit Prolonged Immigration Detention Without A 17 Bond Hearing

18 44. Mr. Mendoza has a profound liberty interest in freedom from physical confinement. “It
19 is well established that the Fifth Amendment entitles [noncitizens] to due process of law
20 in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v.*
21 *Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government
22 custody, detention, or other forms of physical restraint—lies at the heart of the liberty”

23
24 ² *See, e.g.*, Report, *Otay Mesa Detention Center: Inhumane Conditions and the Harsh*
25 *Realities of ICE’s Civil Detention System*, DISABILITY RIGHTS CALIFORNIA, 2020,
26 <https://www.disabilityrightscalifornia.org/system/files/file-attachments/OM-Report-Final.pdf>; Report,
27 *Immigration Detention in California: A Comprehensive Review with a Focus on Mental Health*,
28 CALIFORNIA DEP’T OF JUSTICE, 2025, [https://oag.ca.gov/system/files/media/immigration-](https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf)
[detention-2025.pdf](https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf).

³ Report, *Violations of ICE Detention Standards at Otay Mesa Detention Center*, DEP’T
OF HOMELAND SEC., OFF. OF THE INSPECTOR GEN., Sept. 14, 2021,
<https://www.oig.dhs.gov/sites/default/files/assets/2021-09/OIG-21-61-Sep21.pdf>.

1 that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Due
2 process “prohibits arbitrary deprivations of liberty,” *Demore*, 583 U.S. at 312 (Kennedy,
3 J., concurring)—including detention that that is not necessary to mitigate dangerousness
4 or flight risk, *see Zadvydas*, 533 U.S. at 690.

5 45. While the Supreme Court upheld the mandatory detention of a noncitizen under Section
6 1226(c) in *Demore*, it did so based on the petitioner’s concession of deportability and the
7 Court’s understanding that detentions under Section 1226(c) are typically “brief.”
8 *Demore*, 538 U.S. at 522 n.6, 528. However, when detention becomes prolonged, due
9 process requires “adequate procedural protections” to ensure that the government’s
10 asserted justification for physical confinement “outweighs the individual’s
11 constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at
12 690 (internal quotation marks omitted).

13 46. Courts have repeatedly held that due process requires that the government provide bond
14 hearings to noncitizens facing prolonged “mandatory” detention. *See Black v. Decker*,
15 103 F.4th 133, 159 (2d Cir. 2024) (“[W]e conclude that the Fifth Amendment’s guarantee
16 of due process precludes a noncitizen’s unreasonably prolonged detention under section
17 1226(c) without a bond hearing.”); *German Santos v. Warden Pike Cnty. Corr. Facility*,
18 965 F.3d 203 (3d Cir. 2020); *Reid v. Donelan*, 17 F.4th 1,8 (1st Cir. 2021). Courts in this
19 district routinely entertain as-applied challenges to prolonged 1226(c) detention and grant
20 the remedy of a bond hearing. *See Durand v. Allen*, No. 3:23-CV-00279-RBM-BGS,
21 2024 WL 711607, at *8 (S.D. Cal. Feb. 21, 2024) (interpreting challenge as as-applied to
22 1226(c), despite Petitioner not framing it as such, and granting petition); *Rowe v.*
23 *Archambeault*, No. 26-CV-01744-GPC-DEB, 2026 WL 879487, at *7 (S.D. Cal. Mar. 31,
24 2026); *Sanchez-Rivera v. Matuszewski*, No. 22-CV-1357-MMA (JLB), 2023 WL 139801,
25 at *7 (S.D. Cal. Jan. 9, 2023).

26 **B. Petitioner’s Detention Is Unreasonably Prolonged Under The Mathews**
27 **Balancing Test**

1 47. Since *Jennings v. Rodriguez*, 138 S.Ct. 830, 837 (2018), many courts have evaluated as-
2 applied constitutional challenges to prolonged immigration detention using the *Mathews*
3 *v. Edridge*, 424 U.S. 319, 335 (1976) test, which balances (1) the private interest
4 threatened by government action; (2) the risk of erroneous deprivation of such interest,
5 and the probable value of additional procedural safeguards; and (3) the government
6 interest. *Mathews*, 424 U.S. at 335; *see Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir.
7 2022) (assuming without deciding that *Mathews* applied); *Diep v. Wofford*, No. 1:24-CV-
8 01238-SKO (HC), 2025 WL 604744 (E.D. Cal. Feb. 25, 2025) (applying the *Mathews*
9 test and ordering a bond hearing for an individual detained for 13 months under §
10 1226(c)); *Hilario M.R. v. Warden, Mesa Verde Det. Ctr.*, No. 1:24-CV-00998-EPG-HC,
11 2025 WL 1158841 (E.D. Cal. Apr. 21, 2025) (applying *Mathews* test and ordering a bond
12 hearing); *see also Tzafir v. Bondi*, No. 25-CV-2070-JHC-GJL, 2025 WL 3724708, at *2
13 (W.D. Wash. Dec. 24, 2025) (applying *Mathews* and ordering a noncitizen released after
14 four months of ICE detention).

15 48. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including
16 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”
17 *Zadvydas v. Davis*, 533 U.S. at 693 (collecting cases). “The fundamental requirement of
18 due process is the opportunity to be heard ‘at a meaningful time and in a meaningful
19 manner.’” *Mathews*, 424 U.S. at 333 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552
20 (1965)). As Mr. Mendoza has not had the opportunity to be heard despite the government
21 depriving him of his liberty for over nine months, the *Mathews* test is the proper analysis
22 for what process he is now owed. “Ultimately, *Mathews* remains a flexible test that can
23 and must account for the heightened governmental interest in the immigration detention
24 context.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022).

25 49. Here, where Petitioner has never received *any* individualized evaluation of his detention,
26 the *Mathews* factors weigh strongly in Petitioner’s favor.

1 **1. Mr. Mendoza has a significant private interest in liberty**

2 50. For the first prong of the *Mathews* test, the Court must consider the private interest
3 threatened by the governmental action. 424 U.S. at 335. Here, Mr. Mendoza’s private
4 interest “is the most significant liberty interest there is—the interest in being free from
5 imprisonment.” *See Black*, 103 F.4th at 151 (cleaned up).

6 51. Mr. Mendoza has been detained by ICE without neutral custody review since August 1,
7 2025, when the state of California released him after he completed his sentence in state
8 prison. Mr. Mendoza’s private interest in being at liberty with his family and community
9 is heightened by his deep family and community ties in the San Francisco Bay Area. *See*
10 *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (in applying the first *Mathews* factor, the
11 right “rejoin [one’s] immediate family” “ranks high among the interests of” a detained
12 individual with longstanding ties to the U.S.). His private interest in liberty is therefore
13 profound. *See Diouf v. Napolitano (Diouf II)*, 634 F.3d 1081, 1091-92 (9th Cir. 2011),
14 *abrogated on other grounds by Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022)
15 (“When detention crosses the six-month threshold and release or removal is not
16 imminent, the private interests at stake are profound.”); *Zadvydas*, 533 U.S. at 701
17 (“Congress previously doubted the constitutionality of detention for more than six
18 months.”).

19 52. Moreover, punitive conditions in ICE detention “multiply the burden” on Mr. Mendoza’s
20 liberty and strengthen his private interest. *See Doe*, 2024 WL 2340779, at *13 (“[H]arsh
21 conditions multiply the burden on liberty for any given period.”). Mr. Mendoza is being
22 held in conditions no different than a criminal prison at a *civil* detention center—operated
23 by a private corporation—with reported abusive conditions.⁴

24
25
26 ⁴ Local, state, and federal elected representatives have received reports of inhumane conditions
27 and abuse at Otay Mesa. *See, e.g.*, Press Release, “WATCH: Padilla Denied Entry to Otay Mesa
28 Detention Center by ICE,” dated Feb. 20, 2026, available at:
<https://www.padilla.senate.gov/newsroom/press-releases/watch-padilla-denied-entry-to-otay-mesa-detention-center-by-ice/>.

1 53. “[T]he government’s choice to detain noncitizens like [Mr. Mendoza] in a crowded
2 facility, with operations outsourced to a private contractor, informs the due process
3 consideration of how long is too long.” *See Doe*, 2024 WL 2340779, at *13. As the Third
4 Circuit explained, if a “[noncitizen’s] civil detention under § 1226(c) looks penal, that
5 tilts the scales toward finding the detention unreasonable,” and, as “the length of
6 detention grows, so does the weight” given to that factor. *German Santos v. Warden Pike*
7 *County Correctional Facility*, 965 F.3d 203 at 211. Given the penal qualities of Mr.
8 Mendoza’s detention, his interest in liberty is significant and only grows stronger every
9 day he remains in ICE custody.

10 **2. The value of the procedural safeguard of a bond hearing is high**

11 54. The second prong of the *Mathews* test, the risk of erroneous deprivation of such interest
12 through the procedures used, and the probable value of additional procedural safeguards,
13 also weighs heavily in Mr. Mendoza’s favor. 424 U.S. at 335.

14 55. “[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a
15 neutral decisionmaker is substantial.” *Diouf II*, 634 F.3d at 1092. Conversely, “the
16 probable value of additional procedural safeguards, i.e., a bond hearing, is high, because
17 Respondents have provided virtually no procedural safeguards.” *Diep*, 2025 WL 604744,
18 at *5 (granting habeas petition for person who had been detained for over one year
19 without a bond hearing); *see also Eliazar G.C. v. Wofford*, No. 1:24-CV-01032-EPG-HC,
20 2025 WL 711190, at *7 (E.D. Cal. Mar. 5, 2025) (“As additional procedures are not
21 mandated under § 1226(c), the risk of erroneous deprivation as Petitioner’s time in
22 detention lengthens is not insignificant.”); *Hogarth v. Giles*, No. 5:22-cv-01809- DSF-
23 MAR, Dkt. No. 20 (C.D. Cal. Jan. 11, 2023), *report and recommendation adopted*, Dkt.
24 No. 24 (C.D. Cal. Feb. 23, 2023) (“[T]he analysis for the [this] *Mathews* factor here
25 differs greatly from that of the Ninth Circuit in *Rodriguez Diaz*, primarily due to the fact
26 that Section 1226(c) provides no opportunity for any further bond determinations for the
27 duration of Petitioner’s detention. . . It cannot be that due process authorizes infinite
28 detention without any opportunity for reconsideration.”).

1 56. Here, Mr. Mendoza has been detained for nine months with no neutral review of whether
2 his detention serves any valid purpose. He completed his criminal sentence and was
3 released by the state of California only for ICE to detain him indefinitely. Mr. Mendoza
4 is now detained, with no opportunity for release, pending post-conviction relief at the San
5 Mateo County Superior Court, adjudication of whether he can keep his asylee status, and
6 removal proceedings.

7 57. Given the lack of a bond hearing, the government has not justified Mr. Mendoza's civil
8 detention by showing that he is a danger to the community or a flight risk, but instead,
9 has held him indefinitely. Mr. Mendoza is neither a danger to the community nor a flight
10 risk, and but for his immigration status, he would be a free man. “[T]he probable value of
11 additional procedural safeguards—an individualized evaluation of the justification for his
12 detention—is high[.]” *Jimenez*, 2020 WL 510347, at *3 (granting habeas petition for
13 person who had been detained for one year without a bond hearing).

14 **3. Respondents have no valid interest that would be harmed by a bond**
15 **hearing**

16 58. The third *Mathews* factor additionally supports Mr. Mendoza’s petition: the instant
17 government interest is weak because the interest at stake “is the ability to detain
18 Petitioner *without providing him a bond hearing*, not whether the government may
19 continue to detain him at all.” *See Lopez-Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777
20 (N.D. Cal. Jan. 29, 2019). As the government has conceded in similar cases, the cost of
21 providing such a bond hearing is minimal. *Id.*; *Singh v. Barr*, Case No. 18-cv-2471-
22 GPC-MSB, 2019 WL 4168901, at *12 (Even where the petitioner already had one bond
23 hearing, “[t]he government has not offered any indication that a second bond hearing
24 would have outside effects on its coffers”). In any event, it is “always in the public
25 interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*,
26 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Sammartano v. First Judicial Dist. Court*,
27 303 F.3d 959, 974 (9th Cir. 2002)). While the government has legitimate interests in
28 ensuring a noncitizen’s appearance in court and protecting the community, providing a

1 detained noncitizen with a bond hearing would “do nothing to undercut those interests.”
2 *Black*, 104 F.4th at 153.

3 59. Nor can the minimal cost of providing a bond hearing override the public interest in
4 avoiding needless civil detention. As the Court reasoned in *Black*, “having to do
5 something instead of nothing imposes an administrative and fiscal burden of some kind.
6 But the Department of Justice reported an average cost of detaining noncitizens, in 2019,
7 of \$88.19 per prisoner per day So, retaining and housing detainees imposes
8 substantial costs as well. And, as far as we can tell, ICE may readily access the records of
9 other law enforcement agencies for information bearing on its case for detention where
10 necessary.” *Black*, 104 F.4th at 154. Moreover, requiring Respondents to justify Mr.
11 Mendoza’s detention “promotes the Government’s interest—one [courts] believe to be
12 paramount—in minimizing the enormous impact of incarceration in cases where it serves
13 no purpose.” *See id.* at 154 (noting that “the public interest drives analysis of the third
14 factor” under *Mathews*).

15 60. All three *Mathews* factors weigh in Mr. Mendoza’s favor and compel a grant of habeas
16 relief.

17 **C. Petitioner’s Detention is Unreasonable under the Multi-Factor Tests**

18 61. In the alternative, Mr. Mendoza’s detention without any individualized review is
19 unreasonably prolonged and has violated his procedural due process rights under the
20 three-factor balancing test often applied by courts in this district when petitioners are
21 detained under § 1226. *See Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022);
22 *see also Durand v. Allen*, No. 3:23-CV-00279-RBM-BGS, 2024 WL 711607, at *4 (S.D.
23 Cal. Feb. 21, 2024) (applying *Lopez* and granting bond hearing where petitioner detained
24 pursuant to § 1226(c)); *Sanchez-Rivera v. Matuszewski*, No. 22-CV-1357-MMA (JLB),
25 2023 WL 139801, at *6 (S.D. Cal. Jan. 9, 2023) (same); *Sibomana v. LaRose*, No. 3:22-
26 CV-933-LL-NLS, 2023 WL 3028093, at *4 (S.D. Cal. Apr. 20, 2023) (same). These
27 factors are: the “total length of detention to date, the likely duration of future detention,
28

1 and the delays in the removal proceedings caused by the petitioner and the government.”

2 *Id.*

3 62. Even under the broader, six-factor *Banda* balancing test, courts have found that
4 prolonged detention without a bond hearing violates due process. *See, e.g., Gao v.*
5 *LaRose*, 805 F. Supp. 3d 1106, 1112 (S.D. Cal. 2025) (“find[ing] that Petitioner’s
6 detention for over 10 months without a bond hearing, in the context of the specific
7 circumstances described above, has become unreasonable and violates due process”);
8 *Abdul Kadir v. Larose*, No. 25CV1045-LL-MMP, 2025 WL 2932654, at *6 (S.D. Cal.
9 Oct. 15, 2025) (finding petitioner’s detention for thirteen months without a bond hearing
10 unreasonable). The *Banda* factors include: “(1) the total length of detention to date; (2)
11 the likely duration of future detention; (3) conditions of detention; (4) delays in the
12 removal proceedings caused by the detainee; (5) delays in the removal proceedings
13 caused by the government; and (6) the likelihood that the removal proceedings will result
14 in a final order of removal.” *Sadeqi v. LaRose*, 809 F. Supp. 3d 1090, 1094 (S.D. Cal.
15 2025), *citing Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019). Mr.
16 Mendoza’s detention is prolonged and unreasonable under either multi-factor test.

17 63. Here, Mr. Mendoza’s detention without any neutral review is prolonged and
18 unreasonable. First, he has been detained for more than nine months. This far exceeds the
19 “brief” period of detention contemplated in *Demore*. It also surpasses the six-month
20 benchmark period set forth in other immigration detention contexts. *Zadvydas*, 533 U.S.
21 at 701 (“Congress previously doubted the constitutionality of detention for more than six
22 months”); *Diouf II*, 634 F.3d at 1092 (“As a general matter, detention is prolonged when
23 it has lasted six months and is expected to continue more than minimally beyond six
24 months.”).

25 64. The recognition that six months is a substantial period of confinement—and is the time
26 after which additional process is required to support continued incarceration—is deeply
27 rooted in our legal tradition. With few exceptions, “in the late 18th century in America
28 crimes triable without a jury were for the most part punishable by no more than a six-

1 month prison term . . .” *Duncan v. State of La.*, 391 U.S. 145, 161 & n.34 (1968).
2 Consistent with this tradition, the Supreme Court has found six months to be the limit of
3 confinement for a criminal offense that a federal court may impose without the protection
4 afforded by jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality
5 opinion). The Court has also looked to six months as a benchmark in other contexts
6 involving civil detention. *See McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249, 250-52
7 (1972) (recognizing six months as an outer limit for confinement without individualized
8 inquiry for civil commitment).

9 65. In this district and beyond, “[c]ourts have found detention over seven months without a
10 bond hearing weighs toward a finding that it is unreasonable.” *Amado v. United States*
11 *Dep’t of Just.*, No. 25CV2687-LL(DDL), 2025 WL 3079052, at *5 (S.D. Cal. Nov. 4,
12 2025); *Gao*, 805 F. Supp. 3d at 111 (finding detention for “just over ten months” to
13 weigh in petitioner’s favor); *see also Masood v. Barr*, No. 19-CV-07623-JD, 2020 WL
14 95633, at *3 (N.D. Cal. Jan. 8, 2020) (finding detention for nearly nine months weighs in
15 favor of the petitioner); *Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018)
16 (over seven months); *Perez v. Decker*, No. 18-CV-5279 (VEC), 2018 WL 3991497, at *5
17 (S.D.N.Y. Aug. 20, 2018) (over nine months); *Brissett v. Decker*, 324 F. Supp. 3d 444,
18 452 (S.D.N.Y. 2018) (over nine months).

19 66. Second, Mr. Mendoza’s detention will continue for at least another year or more, given
20 his continued efforts to seek post-conviction relief for his state criminal convictions, and
21 the complicated posture of his asylee termination hearing, removal proceedings, and the
22 appellate rights of both parties. *See* Exh. K, Decl. of Counsel.

23 67. Third, Otay Mesa—a privately run prison—is known for inhumane conditions including
24 overcrowding, inadequate medical care, and lack of proper sanitation.⁵ *See Gao v.*

25
26
27 ⁵ ICE prevented pre-approved San Diego county health inspectors from visiting Otay Mesa on
28 February 20, 2026. *San Diego County sues ICE after it blocked health inspection at detention center*, CAL MATTERS, Mar. 10, 2026, <https://calmatters.org/justice/2026/03/san-diego-otay-mesa-lawsuit/>.

1 *LaRose*, 805 F. Supp. 3d at 1111 (S.D. Cal. 2025) (finding that petitioner’s “conditions of
2 confinement at Otay Mesa Detention Center are not dissimilar to criminal confinement”).

3 68. Fourth, Mr. Mendoza’s removal proceedings are contingent on the adjudication of his
4 asylee status. He has the right to seek post-conviction relief for these criminal convictions
5 under California state law and to seek relief from removal. Mr. Mendoza is not
6 responsible for any undue delay in proceedings.

7 69. Finally, Mr. Mendoza seeks post-conviction relief to address his convictions, remove
8 potential bars to relief, and preserve his ability to stay in the U.S. with his family. He
9 additionally seeks asylum again, should his asylee status be terminated. His request for
10 asylum, withholding, or Convention Against Torture (“CAT”) relief, is thus strong, as it
11 is based on the same facts as when he originally sought and was granted asylum a decade
12 ago. *See Gao*, 805 F. Supp. 3d at 1112 (finding that where petitioner had been previously
13 granted withholding of removal, that suggested that his asylum claim was “not wholly
14 without merit” and weighed in his favor when applying the *Banda* factors).

15 70. Under either multi-factor test, Mr. Mendoza’s detention for over nine months without a
16 bond hearing is unreasonable and violates Due Process.

17 **D. Standards For A Bond Hearing Must Comply With Due Process**

18 71. Mr. Mendoza requests that the Government release him, unless and until he is given a
19 bond hearing before a neutral adjudicator at which the government bears the burden of
20 proving his flight risk or danger by a clear and convincing evidence standard. *See Singh*
21 *v. Holder*, 638 F.3d 1196,1204 (9th Cir. 2011) (“[D]ue process places a heightened
22 burden of proof on the State in civil proceedings in which the individual interests at
23 stake...are both particularly important and more substantial than mere loss of money.”)
24 (internal quotation marks omitted); *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024)
25 (“the BIA properly noted that the government bore the burden”); *Sadeqi*, 809 F. Supp. 3d
26 at 1095 (applying *Singh* to hold that the burden is on the government at a prolonged
27 detention bond hearing); *Ixchop Perez v. McAleenan*, 435 F. Supp. 3d 1055, 1062 (N.D.
28 Cal. 2020) (noting the “consensus view” among District Courts concluding that after

1 *Jennings* “where ... the government seeks to detain an alien pending removal
2 proceedings, it bears the burden of proving that such detention is justified); *Singh v. Barr*,
3 400 F. Supp. 3d 1005, 1018 (S.D. Cal. 2019) (finding due process requires the
4 government to bear the burden in immigration bond proceedings).

5 72. Due process also requires consideration of alternatives to detention. The primary purpose
6 of immigration detention is to ensure a noncitizen’s appearance during removal
7 proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this
8 purpose if there are alternative conditions of release that could mitigate risk of flight. *See*
9 *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE’s alternatives to detention program—the
10 Intensive Supervision Appearance Program—has achieved extraordinary success in
11 ensuring appearance at removal proceedings, reaching compliance rates close to 100
12 percent. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP
13 “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final
14 hearings”). Alternatives to detention must be considered in determining whether
15 prolonged incarceration is warranted.

16 73. Finally, due process requires consideration of a noncitizen’s ability to pay a monetary
17 bond. “Detention of an indigent ‘for inability to post money bail’ is impermissible if the
18 individual’s ‘appearance at trial could reasonably be assured by one of the alternate forms
19 of release.’” *Hernandez v. Sessions*, 872 F.3d 976 at 990 (quoting *Pugh v. Rainwater*, 572
20 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). It follows that—in determining the
21 appropriate conditions of release for immigration detainees— due process requires
22 “consideration of financial circumstances and alternative conditions of release” to prevent
23 against detention based on poverty. *Id.*

24 **CLAIMS FOR RELIEF**

25 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO**
26 **THE U.S. CONSTITUTION (Procedural Due Process)**

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

28 75. The Due Process Clause of the Fifth Amendment forbids the government from depriving

1 any “person” of liberty “without due process of law.” U.S. Const. amend. V.

2 76. To justify Petitioner’s ongoing prolonged detention, due process requires that the
3 government establish, at an individualized hearing before a neutral decisionmaker, that
4 Petitioner’s detention is justified by clear and convincing evidence of flight risk or
5 danger, even after consideration whether alternatives to detention could sufficiently
6 mitigate that risk. *See Singh*, 638 F.3d at 1204 (“[D]ue process places a heightened
7 burden of proof on the State in civil proceedings in which the individual interests at
8 stake...are both particularly important and more substantial than mere loss of money.”)
9 (internal quotation marks omitted); *Singh v. Barr*, 400 F. Supp. 3d at 1018 (finding due
10 process requires the government to bear the burden in immigration bond proceedings) *see*
11 *also Ixchop Perez*, 435 F.Supp.3d at 1062 (noting the “consensus view” among District
12 Courts concluding that after Jennings “where ... the government seeks to detain a
13 [noncitizen] pending removal proceedings, it bears the burden of proving that such
14 detention is justified”); *Gonzalez*, 2019 WL 330906, at *6 (collecting cases applying
15 *Singh* burden of proof for prolonged detention hearings post-*Jennings*).

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Petitioner respectfully requests that this Court:

- 18 1) Assume jurisdiction over this matter;
- 19 2) Issue a Writ of Habeas Corpus and order Petitioner’s release within 14 days, unless the
20 Government schedules a hearing before an immigration judge where: (1) to continue
21 detention, the government must establish by clear and convincing evidence that Petitioner
22 presents a risk of flight or danger, even after consideration of alternatives to detention
23 that could mitigate any risk that Petitioner’s release would present; and (2) if the
24 government cannot meet its burden, the immigration judge order Petitioner’s release on
25 appropriate conditions of supervision, taking into account Petitioner’s ability to pay a
26 bond;
- 27 3) Issue a declaration that Petitioner’s ongoing prolonged detention violates the Due Process
28 Clause of the Fifth Amendment;
- 4) Award reasonable costs and attorney fees under the Equal Access to Justice Act

1 (“EAJA”), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis
2 justified under law; and

3 5) Grant such further relief as the Court deems just and proper.
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5 Dated: May 11, 2026

Respectfully submitted,

6 /s/ Genna Beier
7 Genna Beier

8 Attorney for Petitioner
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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. As the Petitioner's attorney, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: May 11, 2026

/s/ Genna Beier

Attorney for the Petitioner

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