

1 Petitioner submits this Traverse and Memorandum to comply with the Court's order and the
 2 habeas corpus procedure and to expedite the process.

3 **1225 v. 1226**

4 As a threshold matter, petitioner agrees with respondents' Return that petitioner is detained
 5 pursuant to 8 U.S.C. § 1226(a). There have been dozens, maybe hundreds, of decisions in the
 6 Southern District of California reaching this conclusion. Despite this wealth of established law in
 7 this District, the respondent continue to obstinately detain noncitizens on this unlawful basis—
 8 including petitioner. But respondents ignored the primary basis of the petition: the re-detention.

9 **Re-Detention**

10 Petitioner should be released immediately to the street. She should not have to request a
 11 bond at the immigration court because she was unlawfully re-detained. Can the DHS just arbitrarily
 12 re-detain a noncitizen with no change in circumstances? Multiple district courts have said no.

13 District courts have concluded that the DHS cannot just arbitrarily re-detain an individual
 14 without any explanation or change in circumstances. For instance, in *Pinchi v. Noem*, No. 5:25-CV-
 15 05632-PCP, ___ F. Supp. 3d ___, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025), the court
 16 reached this conclusion relying on the Due Process Clause:

17 **... even when ICE has the initial discretion to detain or release a noncitizen pending removal**
 18 **proceedings, after that individual is released from custody she has a protected liberty interest**
 19 **in remaining out of custody.** *See Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2
 20 (N.D. Cal. May 6, 2022) (“[T]his Court joins other courts of this district facing facts similar to the
 21 present case and finds Petitioner raised serious questions going to the merits of his claim that due
 22 process requires a hearing before an IJ prior to re-detention.”); *Jorge M. F. v. Wilkinson*, No. 21-cv-
 23 01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-
 24 5785, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Ortega*, 415 F. Supp. 3d at 969 (“Just as
 25 people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen
 26 released from immigration detention] have a liberty interest in remaining out of custody on bond.”).
 27 *Id.* (emphasis added). Other courts, including this Court, have held similarly. *Doe v. Becerra*, No.
 28 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025); *see also Padilla v.*

1 *U.S. Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023) (“The Supreme
2 Court has consistently held that non-punitive detention violates the Constitution unless it is strictly
3 limited, and, typically, accompanied by a prompt individualized hearing before a neutral
4 decisionmaker to ensure that the imprisonment serves the government’s legitimate goals.”).

5 Several district courts have followed suit and found re-detention due process violations
6 where the petitioners in the cases were specifically identified to be released under Order of Release
7 on Recognizance with an accompanying I-220 form. See, e.g., *C.A.R.V. v. Wofford*, No. 1:25-CV-
8 01395 JLT SKO, 2025 WL 3059549, at *9 (E.D. Cal. Nov. 3, 2025) (finding due process violation
9 where petitioner was originally released on OREC). *Rugama v. Mullin*, No. 26-cv-3424-JES-MMP,
10 2026 WL 1669169, at *2 (S.D. Cal. June 9, 2026).

11 The DHS initially detained petitioner in 2023 but released her on her own recognizance.
12 Petitioner’s release on OR was a concession that she was not a danger to the community or flight
13 risk. Petitioner filed an asylum application, which the judge denied. Petitioner filed an appeal of this
14 decision with the Board of Immigration Appeals. The BIA appeal is pending.

15 After the judge denied the asylum application, ICE called in petitioner for a check-in at the
16 downtown ERO office. When she appeared for her appointment, the DHS officials placed a GPS
17 monitor on petitioner and then let her go home. This *de facto* **second** detention and release (with the
18 GPS monitor) is another concession that petitioner is neither a danger nor a flight risk.

19 Despite this, on June 5, 2026, petitioner was detained by Border Patrol agents who stopped a
20 motor vehicle in which petitioner was a passenger. It was just a coincidence that petitioner was in
21 the vehicle stopped by the Border Patrol. The stop itself is mysterious and smacks of racial
22 profiling. Petitioner was stunned when the Border Patrol officers detained and sent her to the
23 immigration jail for no reason. She remains there today. This is the third detention.

24 Notably, the respondent’s Return provides no explanation or justification for the re-
25 detention after the OR and GPS monitor release. It could be a left-hand vs. right hand thing. That is,
26 one part of the government does not know or care what another part of the same government is
27 doing. Petitioner was already being supervised and monitored by the DHS ERO office downtown.
28 The Border Patrol agents apparently did not care and detained her, maybe to meet their quota for the

1 day. Can the DHS just continue to indefinitely detain petitioner and others like her?

2 **Remedy**

3 In this case, the appropriate relief is an order that respondents immediately release petitioner
4 from detention. It does not matter if this is based on the re-detention or bond jurisdiction issue.

5 Finally, there is a growing trend or realization that the bond proceedings at the Otay Mesa
6 Immigration Court are not fair. The EOIR system has been debased into a deportation machine. The
7 immigration judges apparently know that they risk being fired if they do not perform their expected
8 task of denying bonds and deporting millions of noncitizens. The newest tactic used by immigration
9 judges at the Otay Mesa Immigration Court is to set unreasonably high bonds, knowing that
10 working class noncitizens of modest economic means will not be able to pay the bond. This is
11 despite Ninth Circuit law that when determining the conditions of release for an individual detained
12 pursuant to 8 U.S.C. § 1226(a), U.S. Immigration and Customs Enforcement (“ICE”) officers and
13 immigration judges (“IJ”) must consider the person’s (1) financial ability to post bond and (2)
14 suitability for release on non-monetary alternative conditions of supervision. As the Court
15 explained, these basic procedures are necessary to ensure that “no person [is] imprisoned merely on
16 account of his poverty,” in violation of his or her due process rights. *Hernandez v. Sessions*, 872
17 F.3d 976, 981 (9th Cir. 2017) (Citing *Bearden v. Georgia*, 461 U.S. 660, 671 (1983)). Respondents’
18 goal is to continue to oppress noncitizens into hopelessness, despair, and exhaustion so that they
19 will abandon their rights.

20 But the court should not countenance this injustice. Accordingly, some courts are finding
21 that immediate release, rather than a bond hearing, is the appropriate remedy. See *E.A. T.-B. v.*
22 *Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) (“Although the Government notes that
23 Petitioner may request a bond hearing while detained, such a post-deprivation hearing cannot serve
24 as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous
25 deprivation of liberty.”); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (“if
26 Petitioner is detained, he will already have suffered the injury he is now seeking to avoid”);
27 *Domingo v. Kaiser*, Case No. 25-cv-05893 (RFL), 2025 WL 1940179, at *3 (N.D. Cal. July 14,
28 2025) (“Even if Petitioner[] received a prompt post-detention bond hearing under 8 U.S.C. §

1 1226(a) and was released at that point, he will have already suffered the harm that is the subject of
2 his motion; that is, his potentially erroneous detention.”).

3 So, petitioner seeks the following remedy:

4 1. Respondents are ordered to immediately release Petitioner from custody.

5 2. The Court orders, prior to any re-detention of Petitioner, that Petitioner shall receive
6 a hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) to determine whether
7 detention is warranted. Respondents shall bear the burden of establishing, by clear and convincing
8 evidence, that Petitioner poses a danger to the community or a risk of flight.

9 DATED: 23 June 2026

10 Respectfully submitted,

11 /s/ *William Baker*
12 William Baker (157 906)