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DETAINED

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9 Attorneys for Petitioner Theodosia Abeck, Tagha
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13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**
15

16 In the matter of:

) Case Number: '26CV3745 JO SBC

17
18 THEODOSIA ABECK, TAGHA

19 v.

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

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

)
) Challenge to Unlawful Incarceration;
) Request for Declaratory and
) Injunctive Relief
)
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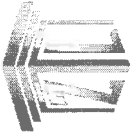
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PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT FOR DECLARATORY RELIEF

ZOHRABYAN
LAW, APC



STATEMENT OF FACTS

1. Petitioner is a native and citizen of Cameroon who entered the United States without inspection or parole on or about September 18, 2025. She has remained in immigration custody since that time and has now been detained for approximately nine (9) months.
2. On October 6, 2025, the Department of Homeland Security (“DHS”) issued a Notice to Appear (“NTA”), initiating removal proceedings against Petitioner. A copy of the NTA is attached **as Exhibit A**.
3. On November 10, 2025, Petitioner filed a Form I-589, Application for Asylum and for Withholding of Removal. Her claims for relief are based on political opinion, membership in a particular social group, and protection under the Convention Against Torture (“CAT”).
4. By April 24, 2026, Petitioner had timely submitted all supporting documentation in advance of the merits hearing, and the case was fully prepared to proceed to a final hearing on the merits.
5. On May 14, 2026, Immigration Judge John Driscoll denied Petitioner’s applications for asylum and withholding of removal. Petitioner timely appealed that decision, and the appeal remains pending.
6. As a result, Petitioner has now been detained for approximately nine (9) months, and her detention continues without a final resolution of her case.
7. During this prolonged period of detention, Petitioner has experienced significant deterioration in both her physical and mental health, suffering ongoing harm as a result of her continued confinement.



1 8. Petitioner's continued detention is arbitrary and unlawful, and she respectfully
2 requests that this Court order her immediate release from Immigration and
3 Customs Enforcement ("ICE") custody.

4
5 **JURISDICTION**

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

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

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

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

17 13. Federal courts also have federal question jurisdiction, through the Administrative
18 Procedure Act ("APA"), to deem unlawful and to set aside agency action that is
19 arbitrary, capricious, an abuse of discretion or otherwise inconsistent with law.
20 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703,
21 which provides that judicial review of agency action under the APA may be
22 proceeded by any applicable form of legal action, including but not limited to
23 habeas corpus. The APA affords a right of review to a person who is adversely
24 affected or harmed by agency action.
25

26 **VENUE**

27
28 14. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3)



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

6 LEGAL FRAMEWORK

7 ICE'S CONTINUED DETENTION OF PETITIONER, WITHOUT 8 REVIEWING HER CUSTODY UNDER ICE POLICY VIOLATES THE 9 ADMINISTRATIVE PROCEDURE ACT AND DUE PROCESS.

10 15. ICE's long-standing policy is to release non-citizens immediately following a
 11 grant of asylum, relief absent exceptional circumstances.

12 16. Under the Accardi doctrine, which originated in the context of an immigration
 13 case and has been developed through subsequent immigration caselaw, agencies
 14 are bound to follow their own rules that affect the fundamental rights of
 15 individuals, even self-imposed policies and processes that limit otherwise
 16 discretionary decisions. See *Accardi v. Shaughnessy*, 347 U.S. at 226 (holding
 17 that BIA must follow its own regulations in its exercise of discretion); *Morton*
 18 *v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected,
 19 it is incumbent upon agencies to follow their own procedures . . . even where
 20 the internal procedures are possibly more rigorous than otherwise would be
 21 required.").

22 17. The requirement that an agency follow its own policies is not "limited to rules
 23 attaining the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167
 24 (2d Cir. 1991). Even an unpublished policy binds the agency if "an examination
 25 of the provision's language, its context, and any available extrinsic evidence"
 26 supports the conclusion that it is "mandatory rather than merely precatory." *Doe*
 27
 28



1 v. Hampton, 566 2d 265, 281 (D.C. Cir. 1977); see also Morton, 415 U.S. at
2 235-36 (applying Accardi to violation of internal agency manual); U S. v.
3 Heffner, 420 F.2d 809, 813 (4th Cir. 1969) ("Nor does it matter that these IRS
4 instructions to Special Agents were not promulgated in something formally
5 labeled a 'Regulation' . . .").

6 18. When agencies fail to adhere to their own policies as required by Accardi, courts
7 typically frame the violation as arbitrary, capricious, and contrary to law under
8 the APA, see *Damus v. Nielson*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) ("It
9 is clear, moreover, that [Accardi] claims may arise under the APA"), or as a
10 due process violation, see *Sameena, Inc. v. United States Air Force*, 147 F.3d
11 1148, 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations
12 tends to cause unjust discrimination and deny adequate notice and consequently
13 may result in a violation of an individual's constitutional right to due process.")
14 (internal quotations omitted).

15 19. Prejudice is generally presumed when an agency violates its own policy. See
16 *Montilla*, 926 F.2d at 167 ("We hold that an alien claiming the INS has failed
17 to adhere to its own regulations . . . is not required to make a showing of
18 prejudice before he is entitled to relief. All that need be shown is that the subject
19 regulations were for the alien's benefit and that the INS failed to adhere to
20 them."); *Heffner*, 420 F.2d at 813 ("The Accardi doctrine furthermore requires
21 reversal irrespective of whether a new trial will produce the same verdict.").

22 20. To remedy an Accardi violation, a court may direct the agency to properly apply
23 its policy, see *Damus*, 313 F. Supp. 3d at 343 ("[T]his Court is simply ordering
24 that Defendants do what they already admit is required."), or a court may apply
25 the policy itself and order relief consistent with the policy. See *Jimenez v.*
26 *Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) (scheduling bail hearing to
27
28

1 review petitioners' custody under ICE's standards because "it would be
2 particularly unfair to require that petitioners remain detained . . . while ICE
3 attempts to remedy its failure").

4 21. Here, Petitioner falls into this category where ICE has failed to act as required
5 by their procedures and require intervention.
6

7 **CLAIMS FOR RELIEF**

8 **GROUND ONE**

9 **VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE**
10 **PROCESS**

11 **Petitioner has the right to challenge the legality of her detention**

12 22. The allegations in the above paragraphs are realleged and incorporated herein.

13 23. Petitioner has due process rights to challenge their detention. *Zadvydas v. Davis*,
14 533 U.S. 678, 693, 695 (2001) (while noncitizens outside the United States'
15 "geographic borders" lack constitutional protections, all "persons" within them
16 are protected by the Due Process Clause, regardless of immigration status);
17 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205-06 (9th Cir. 2022) (though
18 constitutional rights of citizens and noncitizens "are not coextensive,"
19 noncitizens are entitled to due process, including to challenge detention pending
20 proceedings).
21

22 24. As the Ninth Circuit held, the Due Process Clause applies to noncitizens
23 regardless of whether they are "seeking admission" or are "admitted" under
24 immigration law. *Wong v. United States*, 373 F.3d 952, 973 (9th Cir. 2004),
25 abrogated on other grounds by *Wilkie v. Robbins*, 551 U.S. 537 (2007); see also
26 *Padilla v. U.S. Immigr. & Customs Enft*, 704 F. Supp. 3d 1163, 1171 (W.D.
27 Wash. 2023). The Due Process Clause allows Petitioner to challenge her
28 detention.

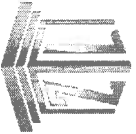


1 25. Respondent fundamentally misapprehends Petitioner's due process claims.
2 Petitioner challenges her deprivation of liberty and prolonged detention, not the
3 adequacy of the procedures the immigration laws afford her "with respect to
4 admission. Petitioner solely challenging her ongoing detention, and she is not
5 bringing a constitutional claim with respect to the procedures governing her legal
6 admission into the United States.

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

24 27. ICE has violated Petitioner's due process rights by denying an individualized
25 custody review to which she is entitled under ICE policy.

26 28. As a remedy, this Court should conduct its own review of Petitioner's custody
27 or, at least, order ICE to review Petitioner's custody under the standard
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1 articulated in ICE policy.

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3 **GROUND TWO**

4 **VIOLATION OF IMMIGRATION AND NATIONALITY 8 U.S.C. §**
5 **1231 (A)(6)**

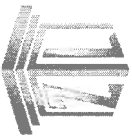
6 **Mandatory detention is subject to constitutional limits**

7 29. The allegations in the above paragraphs are realleged and incorporated herein.

8 30. U.S.C. § 1231 (a)(6), as interpreted by the Supreme Court in Zadvydas, authorizes
9 detention only for "a period reasonably necessary to bring about the alien's
10 removal from the United States." 533 U.S. at 689, 701.

11 31. Petitioner's continued detention has become unreasonable because her removal
12 is not reasonably foreseeable. Therefore, her ongoing confinement violates 8
13 U.S.C. § 1231(a)(6), and she must be released. On May 14, 2026, an
14 Immigration Judge Driscoll John denied Petitioner's asylum and withholding of
15 removal. Petitioner timely appealed that decision. Case is pending.

16 32. Petitioner is challenging her prolonged detention on constitutional grounds, not
17 statutory grounds. Notwithstanding the fact that she is being detained pursuant to
18 section 1225(b), Petitioner's detention is unequivocally subject to Constitutional
19 limits. The Supreme Court has not precluded noncitizens from bringing as-applied
20 constitutional challenges to their mandatory detention. Respondent correctly
21 states: Jennings v. Rodriguez, 583 U.S. 281 (2018) "did not explicitly address
22 constitutionality arguments." U.S. Response at 3. While in Demore v. Kim, 538
23 U.S. 510 (2003) the Supreme Court rejected a facial challenge to mandatory
24 detention under § 1226(c), the Supreme Court has explicitly recognized the
25 availability of judicial review over as-applied challenges to detention, including
26 mandatory detention. See, e.g., Nielsen v. Preap, 586 U.S. 392, 420 (2019);
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Demore v. Kim, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring). Courts in this district have accordingly found constitutional limits to apply to immigration detention, irrespective of the underlying detention authority. See, e.g., Gebregziabher v. Marrero, Case 3:26-cv-02004-JES-MSB; Liu v. Larose, Case 3:26-cv-01546-JO-MMP; Synthia Engonwei Munoh Warden, Otay Mesa Detention Center, Case 26-CV-1773 JLS (DDL); Fuad Abdulielil Ahmed V. Sixto Marrero Case 26-cv-01170-BAS-MMP; Maksim Lastin v. Warden, Imperial Regional Detention Facility 26-cv-974-RSH-DDL; Natalia Lastina V. Warden of Imperial Regional Detention Facility 3:26-cv-00975-TWR-VET; Karakhanyan v. Warden of Otay Mesa Detention Center-3:25-cv-03454-JO-MMP; Romik Parunakyan v. Warden of Otay Mesa Detention Center 25-cv-3739-LL-MSB; L.S. v. Warden of Otay Mesa Detention Center; M.F. v. Warden of Otay Mesa Detention Center 3:25-cv-3599-CAB-MSB; Miganush Ogandzhanyan V. Warden Of Otay Mesa Detention Center 26cv0093 DMS MSB; Ter Ogannisian Geros v. Warden Of Otay Mesa Detention Center 26-CV-91 JLS (AHG); Emanuel Ter-Ogannisian v. Warden Of Otay Mesa Detention Center 26cv0124 DMS JLB; L.S. v. Warden of Otay Mesa Detention Center; Naira Kirakosyan v. Warden of Otay Mesa Detention Center 26-cv-315-JO-DDL; , Rumiantseva v. Larose Case 3:26-cv-02214-JO-DEB; Lin Aizeng v. Warden of Otay Mesa Detention Center Case No. : 26cv3063-LL-MSB; Hui Wang v. Warden of Otay Mesa Detention Center Case No. 26cv3119-LL-GC; Tatiana Miagkikh Warden of Otay Mesa Detention Center Case No. 1:26-cv-03295-DJC-SCR.. **(granting a writ of habeas corpus after Court determined that Petitioner's detention without a bond hearing has become unreasonable and violates due process).**

33. This Court should so hold as well.

34. Petitioner has now been detained for thirteen (13) months and with no indication

1 of when relief might be available. This prolonged and indeterminate detention is
2 arbitrary, excessive in duration, and unconstitutional.

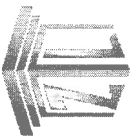
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4 **GROUND THREE**
5 **ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE**
6 **ADMINISTRATIVE PROCEDURE ACT**

7 **Petitioner's ongoing and unreviewed detention violates her constitutional due**
8 **process rights and cannot continue without a bond hearing**

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

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

25
26 37. The Mathews test for procedural due process claims balances: (1) the private
27 interest threatened by governmental action; (2) the risk of erroneous deprivation
28



1 of such interest and the value of additional or substitute safeguards; and (3) the
2 government interest. 424 U.S. at 335. Each Mathews factor weighs in Petitioner's
3 favor. Petitioner's detention of 13 months and counting without any neutral
4 review is a violation of her procedural due process rights and requires this court
5 to order a hearing before a neutral adjudicator to evaluate whether the
6 government can justify her ongoing detention.

7 38. Petitioner has a profound liberty interest. Petitioner has a weighty interest in her
8 own liberty, the core privacy interest at stake here. *Zadvydas*, 533 U.S. at 690
9 ("Freedom from imprisonment...lies at the heart of the liberty [the Due Process
10 Clause] protects.").

11 39. The second prong of the Mathews test, the risk of erroneous deprivation of such
12 interest through the procedures used, and the probable value of additional
13 procedural safeguards, also weighs heavily in Petitioner's favor. 424 U.S. at 335.
14 "[T]he risk of an erroneous deprivation of liberty in the absence of a hearing
15 before a neutral decisionmaker is substantial." *Diouf v. Napolitano* (*Diouf II*),
16 634 F.3d 1081, 1092 (9th Cir. 2011). When a petitioner "does not have a statutory
17 right to a bond hearing or the right to seek additional bond hearings. . . the risk
18 of erroneous deprivation as Petitioner's time in detention lengthens is not
19 insignificant," and the probable value of additional procedural safeguards is
20 exceedingly high. *Eliazar G.C.*, No. 1:24-CV-01032-EPG-HC, 2025 WL 711190,
21 at *7 (E.D. Cal. Mar. 5, 2025); *Tonoyan v. Andrews*, 2025 WL 3013684 at *4
22 ("Given that Petitioner has been held without a bond hearing for almost a year,
23 and it is not clear when detention will end, the risk of erroneous deprivation
24 weighs in favor of granting a bond hearing."). In this case, Petitioner has been
25 deprived of her liberty in civil detention for 9 months. Because she is subject to
26 mandatory detention pursuant to section 1225(b), she does not have the statutory
27
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1 right to request a bond hearing and therefore lacks access to an appropriate
2 procedural safeguard that would protect against the risk of erroneous deprivation,
3 absent intervention from this Court.

4 40. Here, a bond hearing before a neutral decisionmaker is the only appropriate
5 procedural safeguard to protect against the risk of erroneous deprivation because
6 it provides both the noncitizen and the government with an opportunity to present
7 witness testimony or evidence and be heard before a neutral body. Anything less
8 would not comport with due process. In particular, “the discretionary parole
9 system available to § 1225(b) detainees are not sufficient to overcome the
10 constitutional concerns raised by prolonged mandatory detention because the
11 parole process is purely discretionary, and its results are unreviewable by IJs and
12 “release decisions are based on humanitarian considerations and the public
13 interest.” *Abduraimov*, 2025 WL 2912307, at *6 (citing *Rodriguez v. Robbins*
14 (*Rodriguez II*), 715 F.3d 1127, 1144 (9th Cir. 2013) (internal quotations omitted).
15 The parole process “is not a constitutionally adequate substitute for a bond
16 hearing particularly since it does not test the necessity of detention, does not
17 afford the noncitizen an in-person adversarial hearing before a neutral
18 decisionmaker where he or she may present witness testimony or evidence, does
19 not require the ICE detention officer [to] make any factual findings or provide
20 their reasoning, and there is no apparent right to an administrative appeal.”
21 *Abduraimov*, 2025 WL 2912307, at *6 (citing *Padilla v. U.S. Immigr. & Customs*
22 *Enft*, 704 F. Supp. 3d 1163, 1174 (W.D. Wash. 2023)).

23
24 41. Any internal review of Petitioner’s detention or request for discretionary parole
25 by DHS cannot satisfy the requirements for due process because DHS is the very
26 authority that is detaining him. Where a custody review is conducted by the very
27 same agency that is detaining the individual, that agency reviewing its own
28



1 actions cannot be held to a neutral standard. As such, Petitioner must be afforded
2 a hearing before a neutral arbiter in order for her ongoing, prolonged detention to
3 comply with due process.

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

17
18 43. Here, On May 14, 2026, an Immigration Judge Driscoll Johm denied
19 Petitioner's asylum and withholding of removal. Petitioner timely appealed
20 that decision. Case is pending.

21 44. Petitioner has been in detention **for 9 months**, and Petitioner's removal is not
22 reasonably foreseeable, as it depends entirely on the outcome of her merits appeal
23 and any subsequent review that may follow. Accordingly, her continued
24 detention is arbitrary, prolonged, and constitutionally unreasonable.

25 45. Due to prolonged detention, Respondent has been experiencing physical and
26 mental issues. There is no indication as to how long the appeal will take, and/or
27 depending on outcome of the appeal, Petitioner might stay in custody longer.
28

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

17 47. The third Mathews factor also supports Petitioner: the government interest is
18 weak here because the interest at stake “is the ability to detain Petitioner without
19 providing her a bond hearing, not whether the government may continue to detain
20 him” at all. Lopez-Reyes v. Bonnar, 362 F. Supp. 3d 762, 777 (N.D. Cal. Jan. 29,
21 2019) (emphasis in original). As the government has conceded in similar cases,
22 the cost of providing such a bond hearing is minimal. Id.; Singh v. Barr, Case No.
23 18-cv-2471-GPC-MSB, 2019 WL 4168901, at *12 (“The government has not
24 offered any indication that a second bond hearing would have outside effects on
25 its coffers.”); Marroquin Ambriz v. Barr, 420 F. Supp. 3d 953, 964 (N.D. Cal.
26 2019) (noting in the context of a §1226(a) detention, the parties did not contest
27 “that the cost of conducting a bond hearing, to determine whether the continued
28



1 detention of Petitioner is justified, is minimal”). Holding a hearing at which
2 Respondents must justify Petitioner’s continued detention thus actually
3 “promotes the Government’s interest—one we believe to be paramount—in
4 minimizing the enormous impact of incarceration in cases where it serves no
5 purpose.” See Velasco-Lopez v. Decker, 978 F.3d 842, 854 (2d Cir. 2020)
6 (emphasis added); id. at n.11; Hernandez-Lara v. Lyons, 10 F.4th 19, 33 (1st Cir.
7 2021) (“[L]imiting the use of detention to only those noncitizens who are
8 dangerous or a flight risk may save the government, and therefore the public,
9 from expending substantial resources on needless detention.”).

10 48. In sum, there is no question that all three Mathews factors favor Petitioner.
11 Contrary to Respondent’s claim, Petitioner’s prolonged detention does not pass
12 constitutional muster and requires that this Court immediately order her a bond
13 hearing.

14 49. At a bond hearing, the government must bear the burden of justifying Petitioner’s
15 ongoing and prolonged detention. Where a custody hearing is warranted as a
16 procedural safeguard against unreasonably prolonged detention, it is well
17 established that the government bears the burden of justifying continued
18 confinement by clear and convincing evidence. Singh v. Holder, 638 F.3d 1196,
19 1204 (9th Cir. 2011) (“[D]ue process places a heightened burden of proof on the
20 State in civil proceedings in which the individual interests at stake...are both
21 particularly important and more substantial than mere loss of money.”). See e.g.
22 Lopez, 631 F. Supp. 3d 870, n.3 (specifically noting that Singh provided guidance
23 as to the procedural requirements for bond hearings and that the government must
24 prove by clear and convincing evidence that a noncitizen is a flight risk, or danger
25 to the community to justify denying bond) (internal quotations omitted); Eliazar
26 G.C., 2025 WL 711190, *10 (E.D. Cal. Mar. 5, 2025) (stating that the Court will
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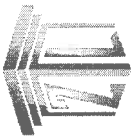
1 follow the “overwhelming majority of courts” to hold that the government must
2 justify continued mandatory detention by clear and convincing evidence that the
3 noncitizen is a flight risk or a danger to the community); Maksim, 2025 WL
4 2879328, * 6 (same); Abduraimov, 2025 WL 2912307, *11 (same); Idiev, 2025
5 WL 3089349, *7 (same); Tonoyan, 2025 WL 3013684, *5 (same).

6 50. The Ninth Circuit in Singh stressed that “it is improper to ask the individual to
7 share equally with society the risk of error when the possible injury to the
8 individual—deprivation of liberty— is so significant[.]” See Singh, 638 F. 3d at
9 1205; Black, 103 F.4th at 157-58 (observing that where “an individual’s liberty
10 is at stake, the Supreme Court has consistently used [clear and convincing]
11 evidentiary standard for continued detention”) (internal citations omitted); id. at
12 159 (reiterating that the government bears the burden of meeting this standard
13 even where an individual is detained pursuant to mandatory detention). This
14 Court should, too, apply the heavy burden on the government to justify
15 Petitioner’s continued civil detention without a bond hearing.

16 51. Moreover, at the evidentiary hearing, the adjudicator must consider alternatives
17 to detention and Petitioner’s financial circumstances in determining whether
18 further detention is warranted and the conditions of her release. See, e.g.,
19 Hernandez, 872 F.3d at 994 (“If the government is setting monetary bonds to
20 ensure appearance at future proceedings, there is no legitimate reason for it not
21 to consider the individual’s financial circumstances and alternative conditions of
22 release.”).

23 52. Thus, due process and Ninth Circuit precedent require that the government bear
24 the burden of justifying Petitioner’s ongoing and prolonged detention by clear
25 and convincing evidence.
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PRAYER FOR RELIEF

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

- a) Assume jurisdiction over this matter;
- b) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- c) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. §1231(a)(6);
- d) Issue a Writ of Habeas Corpus ordering Respondents to be released;
- e) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- f) Grant any further relief this Court deems just and proper

DATED: June 26, 2026,

Respectfully submitted



Naira Zohrabyan
Attorney for Petitioner

