

ERIC GRANT
United States Attorney
JENNIFER A. DEINES
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
Telephone: (916) 554-2700
Facsimile: (916) 554-2900

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAMIRO TRUJILLO HERNANDEZ,

Petitioner,

v.

WARDEN OF THE GOLDEN STATE
ANNEX DETENTION FACILITY, *et al.*,

Respondents.

CASE NO. 1:25-CV-01711-WBS-SCR

**RETURN TO PETITION FOR WRIT OF
HABEAS CORPUS**

I. INTRODUCTION

Respondents hereby file this Return to Petition for Writ of Habeas Corpus and respectfully request that the Court deny Petitioner Ramiro Trujillo Hernandez's habeas petition. The Immigration and Nationality Act ("INA") mandates Petitioner's detention based on his conviction for attempted murder. *See* 8 U.S.C. § 1226(c). Petitioner's detention also satisfies the demands of Due Process and Supreme Court and Ninth Circuit caselaw addressing Section 1226(c), as discussed in more detail below. Accordingly, Petitioner has not met his burden under 28 U.S.C. § 2241(c)(3) of showing that "he is in custody in violation of the Constitution or laws . . . of the United States" and his habeas petition should be denied.

II. BACKGROUND

Petitioner was admitted to the United States as a lawful permanent resident on April 25, 1988. Declaration of Deportation Officer Alejandro Parra Jaimes ("Decl."), ¶ 6; Exhs. 1, 2. On or about

1 August 31, 2007, Petitioner was convicted in the Superior Court of California of attempted murder in
2 violation of California Penal Code 664/187. Decl., ¶ 7; Exh. 3. Petitioner was sentenced to seven years
3 to life with the possibility of parole, and with an enhancement pursuant to California Penal Code
4 12002.23(C) of 20 years' imprisonment. *Id.*

5 On May 20, 2025, Petitioner was paroled, ECF No. 1, ¶ 23. That same day, he was taken into
6 Immigration and Customs Enforcement ("ICE") custody. *Id.*; Decl., ¶ 9; Exhs. 2, 4. Petitioner is
7 detained the Golden State Annex in McFarland, California. ECF No. 1.

8 Petitioner currently is in removal proceedings based on his conviction for an aggravated felony.
9 Decl., ¶ 8; Exh. 1. Petitioner's May 20, 2025 Notice to Appear states that Petitioner was convicted of an
10 aggravated felony as defined in Section 101(a)(43)(F) of the INA, and as defined under Section
11 101(a)(43)(U) of the INA. Exh. 1. Section 101(a)(43)(F) includes in the definition of "aggravated
12 felony" "a crime of violence (as defined in section 16 of title 18, but not including a purely political
13 offense) for which the term of imprisonment at least one year." 8 U.S.C. § 1101(a)(43)(F). Section
14 101(a)(43)(U) includes in the definition of "aggravated felony" "an attempt or conspiracy to commit an
15 offense described in this paragraph." 8 U.S.C. § 1101(a)(43)(U).

16 Petitioner has had seven hearings in his immigration proceedings, beginning approximately two
17 weeks after he was detained. *See* Decl., ¶¶ 10, 11, 14, 16, 17, 18, 20. The Declaration of Deportation
18 Officer Parra Jaimes identifies at least five instances in which Petitioner has requested and received
19 continuances in his removal proceedings. Decl., ¶¶ 10, 11, 16, 17, 18 (stating that Petitioner sought and
20 received continuances on: (1) June 4, 2025 with the next hearing scheduled for approximately three
21 weeks later; (2) June 26, 2025 with the next hearing scheduled for three weeks later; (3) October 1, 2025
22 with the next hearing scheduled for approximately three weeks later; (4) October 21, 2025 with the next
23 hearing scheduled for four weeks and one day later; and (5) November 24, 2025 with the next hearing
24 scheduled for six weeks later); *see also* Executive Office for Immigration Review Hearing Notices,
25 Exhs. 5, 6, 8, 9, 10. The Immigration Judge also continued Petitioner's immigration proceedings for five
26 weeks at an August 21, 2025 master calendar hearing during which Petitioner asserted he had obtained
27 immigration counsel. Decl., ¶ 14; Exh. 7. According to Deportation Officer Parra Jaimes's Declaration,
28 no attorney has entered an appearance in Petitioner's immigration proceedings. Decl., ¶¶ 14, 16, 17.

1 Deportation Officer Parra Jaimes's Declaration also states that ICE objected to two of Petitioner's
2 requested continuances, though the Immigration Judge granted both continuances. Decl., ¶¶ 16, 18;
3 Exhs. 8, 10. The Immigration Court has reset three hearings during Petitioner's immigration
4 proceedings. Decl. ¶¶ 10-12 (stating that the Immigration Court originally scheduled a master calendar
5 hearing for July 17, 2025 that was reset to July 24, 2025 and later to August 21, 2025), 15 (stating the
6 Immigration Court reset a hearing scheduled for September 25, 2025 to October 1, 2025), 18-19 (stating
7 the Immigration Court reset a hearing scheduled for January 5, 2026 to January 21, 2026). Petitioner's
8 merits hearing is scheduled for April 22, 2026. Decl., ¶ 20; Exh. 11.

9 Petitioner filed his habeas petition on December 2, 2025. ECF No. 1. In his habeas petition,
10 Petitioner argues that he has been detained in immigration custody for over six months without a bond
11 hearing, and that such detention violates the Due Process Clause of the Fifth Amendment. *Id.*, ¶¶ 2-
12 3. Petitioner requests that the Court issue a writ of habeas corpus and order Petitioner's immediate
13 release with appropriate conditions of supervision if necessary, taking into account Petitioner's ability to
14 pay a bond. *Id.*, ¶ 4. Alternatively, Petitioner requests that the Court issue a writ of habeas corpus and
15 order Petitioner's release within 30 days unless Respondents schedule a hearing before an immigration
16 judge during which the government must establish by clear and convincing evidence that Petitioner
17 presents a risk of flight or danger, even after consideration of alternatives to detention that could
18 mitigate any risk that Petitioner's release would present, requiring the immigration judge to order release
19 on appropriate conditions of supervision if the government does not meet its burden. *Id.*, ¶ 5.

20 III. LEGAL STANDARD

21 A habeas petition contests the "legality or duration" of confinement. *Badea v. Cox*, 931 F.2d 573,
22 574 (9th Cir. 1991) (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 485 (1973)). The petitioner must make
23 specific factual allegations that, if true, would entitle him to habeas corpus relief. *O'Bremski v. Maass*,
24 915 F.2d 418, 420 (9th Cir. 1990); *United States v. Poopola*, 881 F.2d 811, 812 (9th Cir. 1989). A
25 federal court may only grant a habeas petition if the petitioner shows that "he is in custody in violation
26 of the Constitution or laws . . . of the United States." 28 U.S.C. § 2241(c)(3). "[H]abeas is not available
27 to claim that the [government] simply came to an unwise, yet lawful, conclusion when it did exercise its
28 discretion." *Guettierrez-Chavez v. INS*, 298 F.3d 824, 828 (9th Cir. 2002).

IV. ARGUMENT

A. Petitioner's Detention is Mandatory Under 8 U.S.C. § 1226(c), Based on Petitioner's Conviction of an Aggravated Felony.

8 U.S.C. § 1226(c) is the applicable part of the INA governing Petitioner's detention and states in relevant part that the Attorney General "*shall* take into custody" any noncitizen who is "is deportable by reason of having committed any offense covered in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of" the INA. 8 U.S.C. § 1226(c) (emphasis added). Section 1227(a)(2)(A)(iii), in turn, provides that someone who is not a U.S. citizen "who is convicted of an aggravated felony at any time after admission is deportable." 8 U.S.C. § 1227(a)(2)(A)(iii). Among the offenses that the INA treats as an aggravated felony are "a crime of violence (as defined in section 16 of title 18, but not including a purely political offense) for which the term of imprisonment at least one year," 8 U.S.C. § 1101(a)(43)(F), and "an attempt or conspiracy to commit an offense described in this paragraph." 8 U.S.C. § 1101(a)(43)(U). The Notice to Appear charged Petitioner with removability under Section 237(a)(2)(A)(iii) (8 U.S.C. § 1227(a)(2)(A)(iii)), because he was convicted of an aggravated felony as defined by 8 U.S.C. § 1101(a)(43)(F) and 8 U.S.C. § 1101(a)(43)(U). Decl., ¶ 8; Exh. 1.

Due to his detention under Section 1226(c), the INA provides Petitioner no statutory right to release or a bond hearing. *See* 8 U.S.C. § 1226(c); *Avilez v. Garland*, 69 F.4th 525, 533-34 (9th Cir. 2023) (*citing Jennings v. Rodriguez*, 583 U.S. 281, 303, 305-06 (2018) ("We hold that § 1226(c) mandates detention of any alien falling within its scope and that detention may end prior to the conclusion of removal proceedings 'only if' the alien is released for witness-protection purposes" and "§ 1226(c) makes clear that detention of aliens within its scope *must* continue 'pending a decision on whether the alien is to be removed from the United States.'")).

Likewise, Petitioner does not fall within the narrow statutory exception to Section 1226(c)'s mandatory detention provision. Paragraph (4) of Section 1226(c) allows the Attorney General to release someone detained under paragraph (1) "only if the Attorney General decides pursuant to section 3521 of title 18" that release is necessary for witness protection purposes and the person to be released "satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding." 8 U.S.C. § 1226(c)(4). Paragraph (4) further

1 provides that “[a] decision relating to such release shall take place in accordance with a procedure that
2 considers the severity of the offense committed by the alien.” *Id.* There is no witness protection-related
3 basis to release Petitioner under Section 1226(c)(4). 8 U.S.C. § 1226(c)(4).

4 Thus, Respondents have detained Petitioner pursuant to statutory authority under the INA and
5 the applicable provision of the INA does not provide Petitioner the right to a bond hearing or release.

6 **B. Petitioner’s Detention Satisfies Due Process.**

7 1. Section 1226(c)’s Mandatory Detention Provision is Constitutional.

8 Any facial challenge to Section 1226(c)’s mandatory detention provision is foreclosed by
9 Supreme Court case law upholding the constitutionality of Section 1226(c). *See Demore v. Kim*, 538
10 U.S. 510 (2003) (rejecting a facial challenge to a noncitizen’s mandatory civil detention pending
11 removal proceedings under 8 U.S.C. § 1226(c)). In *Demore*, the Supreme Court determined that
12 mandatory detention during civil removal proceedings is “constitutionally permissible.” *Demore*, 538
13 U.S. at 530–31. While the Supreme Court recognized that mandatory detention normally lasts for a
14 “limited period” of time, the Court held that mandatory detention could run for a longer period while
15 still being constitutional, for example, where, as in this case, the noncitizen had requested a continuance
16 of his merits hearing. *Id.* at 531. In *Demore*, along with *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the
17 Supreme Court made clear that the authority to detain under Section 1226(c) has a “definite termination
18 point”, which is “the conclusion of removal proceedings.” *Demore*, 538 U.S. at 29; *Jennings*, 583 U.S.
19 at 304.

20 2. Detention Lasting Over Six Months Does Not Automatically Violate the Due Process Clause

21 Petitioner argues that detention exceeding six months without a bond hearing is unconstitutional,
22 ECF No. 1, ¶¶ 27-28, but the Supreme Court in *Jennings* rejected the Ninth Circuit’s prior interpretation
23 that 8 U.S.C. § 1226(c) included “an implicit 6-month time limit on the length of mandatory detention.”
24 583 U.S. at 292–94, 298. The Ninth Circuit has not resolved the question of whether, and when, a bond
25 hearing would be required for someone detained under Section 1226(c). *See Martinez v. Clark*, 36 F.4th
26 1219, 1223 (9th Cir. 2022) (“Whether due process requires a bond hearing for aliens detained under §
27 1226(c) is not before us today. And we take no position on that question.”), *vacated and remanded on*
28 *other grounds*, 144 S.Ct. 1339 (2024); *Avilez*, 69 F.4th at 538 (declining to make a determination on

whether due process required a bond hearing for a noncitizen detained under Section 1226(c) and remanding to district court for consideration of due process claim). Following *Jennings*, this Court also has repeatedly declined to identify a specific time after which immigration detention will be considered presumptively violative of due process. *See, e.g., Navarrete-Leiva v. U.S. Attorney General, et al.*, No. 1:24-cv-00938-SKO, 2024 WL 5111780 (E.D. Cal. Dec. 13, 2024) (rejecting petitioner’s claim that the Constitution requires a bond hearing for continued detention during removal proceedings beyond six months); *Abdul-Samed v. Warden of the Golden State Annex Detention Facility*, No. 1:25-cv-00098, 2025 WL 2099343, at *5 (E.D. Cal. July 25, 2025) (declining to adopt a presumption of reasonableness or unreasonableness as to any period of detention). Therefore, Petitioner cannot establish a due process violation or a right to a bond hearing based solely on the fact that his mandatory detention has lasted over six months.

3. Petitioner’s As-Applied Due Process Argument Also Fails.

Petitioner cannot demonstrate that Respondents have violated his due process rights in the application of Section 1226(c)’s mandatory detention to Petitioner’s circumstances. Petitioner argues that his detention without any individualized review is unreasonable under *Mathews v. Eldridge* or, alternatively, under the multi-factor reasonable test adopted in *German Santos v. Warden Pike Correctional Facility*, 965 F.3d 203, 211 (3d Cir. 2020). ECF No. 1, ¶ 29.

“The Due Process Clause of the Fifth Amendment mandates that ‘[n]o person shall ... be deprived of life, liberty, or property, without due process of law.’” *United States v. Quintero*, 995 F.3d 1044, 1051 (9th Cir. 2021) (*citing* U.S. Const. amend. V). “The Due Process Clause ‘protects individuals against two types of government action’: violations of substantive due process and procedural due process.” *Id.* (*citing United States v. Salerno*, 481 U.S. 739, 746 (1987)). The Fifth Amendment entitles noncitizens to due process of law, but the Ninth Circuit “interpret[s] the Due Process Clause consistent with longstanding precedent recognizing that the process due” to people who are not U.S. citizens “must account for the government’s countervailing interests in immigration enforcement—considerations that do not apply to U.S. citizens.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205–06 (9th Cir. 2022).

Petitioner errs in asking this Court to apply the multi-factor due process balancing test forth in

1 *Mathews v. Edridge*, 424 U.S. 319 (1976), to analyze Petitioner’s due process claim. The use of the
2 *Mathews* test in the context of mandatory detention under Section 1226(c) is unsupported by Supreme
3 Court authority. Indeed, the Supreme Court has not adopted a multi-factor balancing test (e.g., *Mathews*)
4 for constitutional challenges to civil detention in removal proceedings. See *Dusenbery v. United States*,
5 534 U.S. 161, 168 (2002) (“[W]e have never viewed *Mathews* as announcing an all-embracing test for
6 deciding due process claims.”). Accord *Demore*, 538 U.S. at 513; *Jennings*, 583 U.S. at 303-06. See
7 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022) (Bumatay, J., concurring) (stating “the
8 [Supreme] Court has recently backed away from multi-factorial ‘grand unified theor[ies]’ for resolving
9 legal issues”). See also *Hart v. Massanari*, 266 F.3d 1155, 1171 (9th Cir. 2001) (“A decision of the
10 Supreme Court will control that corner of the law unless and until the Supreme Court itself overrules or
11 modifies it. Judges of the inferior courts may voice their criticisms but follow it they must.”).

12 This Court should instead follow the analysis in *Keo v. Warden of the Mesa Verde ICE*
13 *Processing Center*, No. 1:24-cv-00919-HBK (HC), 2025 WL 1029392 (E.D. Cal., Apr. 7, 2025), which
14 rejected such multi-factor balancing. The Court in *Keo* noted that while there has been no “specific
15 guidance from the Supreme Court or the Ninth Circuit on whether due process requires a bond hearing
16 under § 1226(c), multiple United States Circuit Courts and ‘district courts throughout this circuit have
17 ordered immigration courts to conduct bond hearings for noncitizens held for prolonged periods under §
18 1226(c).’” *Id.* at 5 (quoting *Martinez*, 36 F.4th at 1223). Those cases used “a myriad of overlapping
19 balancing tests” to determine “whether a petitioner’s due process rights under the Fifth Amendment
20 were violated when they were not afforded a bond hearing while detained under § 1226(c).” *Keo*, 2025
21 WL 1029392 at *5 (citing cases). After its review of the statutory text, relevant Supreme Court
22 precedents and other cases addressing due process claims brought by petitioners detained under Section
23 1226(c), the Court in *Keo* found:

24 the threshold question in considering Petitioner’s claims of unreasonably
25 prolonged detention under § 1226(c) without a bond hearing is whether
26 Petitioner’s continued detention serves the purported immigration purpose
27 and has a definite termination point, as opposed to any “balancing test” to
28 determine whether procedural due process is due based largely on the length
of Petitioner’s detention without a bond hearing.

Keo, 2025 WL 1029392 at *7 (citations omitted).

1 In rejecting the use of a multi-factor balancing test, this Court followed *Banyee v. Garland*, 115
2 F. 4th 928, 933 (8th Cir. 2024) (quoting *Demore*, 538 U.S. at 527). In *Banyee*, the Eighth Circuit refused
3 to conduct multi-factor balancing under *Mathews* and held that no bond hearing is required because the
4 petitioner's immigration detention was not punitive¹ and otherwise "the government can detain an alien
5 for as long as deportation proceedings are still pending." *Banyee*, 115 F.4th at 933. Quoting from a
6 concurring opinion in *Martinez*, the Court in *Keo* also noted that "Due process doesn't require bond
7 hearings for criminal aliens mandatorily detained under § 1226(c)—even for prolonged periods." *Keo*,
8 2025 WL 1029392, at *7. Thus, following the analysis in *Keo*, this Court would ask only one question:
9 are removal proceedings ongoing? If the answer is affirmative, as in this case, then Petitioner's detention
10 is *per se* constitutional, and the habeas petition must be denied.

11 Even if the Court applied a multi-factor balancing test to Petitioner's detention, neither of the
12 most common tests would favor Petitioner.

13 a. The *Mathews* Test Does Not Favor Petitioner.

14 The traditional test for assessing procedural due process claims set forth in *Mathews* is a
15 "flexible test that can and must account for the heightened governmental interest in the immigration
16 detention context." *Rodriguez Diaz*, 53 F.4th at 1206. Under *Mathews*, the "identification of the specific
17 dictates of due process generally requires consideration of three distinct factors": (1) "the private interest
18 that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest
19 through the procedures used, and the probable value, if any, of additional or substitute procedural
20 safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and
21 administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S.
22 at 334–35. Even if *Mathews* were applied here, Petitioner's claim would fail.

23 The first *Mathews* factor favors Respondents. While a noncitizen's private interest in "freedom
24 from prolonged detention" is "unquestionably substantial," *Singh v. Holder*, 638 F.3d 1196, 1208 (9th
25 Cir. 2011), *abrogated on other grounds as recognized by Rodriguez Diaz*, 53 F.4th at 1202, the same

26
27 ¹ Here, there is no evidence Petitioner's detention during his civil removal proceedings is motivated for
28 punitive reasons or that his detention otherwise fails to serve immigration purposes. *See Demore*, 538
U.S. at 533.

1 cannot be said for freedom from all detention itself. As noted, the Supreme Court and this Court have
2 upheld mandatory detention during removal proceedings against due process challenges, even where
3 removal proceedings are prolonged. *Demore*, 538 U.S. at 530-31; *Keo*, 2025 WL 1029392, at *8.

4 Here, however, the Court need not determine whether prolonged detention under Section 1226(c)
5 could give rise to a due process violation, because Petitioner's detention has not become unreasonably
6 prolonged. Petitioner has been in removal proceedings and immigration detention for approximately
7 nine months, since May 2025, and his merits hearing is scheduled for April 22, 2026. Petitioner
8 requested and received at least five continuances to allow him to obtain counsel and to submit
9 documents. Decl., ¶¶ 10, 11, 16, 17, 18; Exhs. 5, 6, 8, 9, 10. Based on five requests for continuances by
10 Petitioner, the Immigration Judge continued his hearings for a combined total of approximately 20
11 weeks. *Id.* The Immigration Judge continued a sixth hearing during which Petitioner asserted he had
12 retained counsel, for an additional five weeks. Decl., ¶ 14; Exh. 7. While the Immigration Court has also
13 reset three hearings in Petitioner's immigration proceedings, the approximately 25 weeks of
14 continuances would comprise over half the days from the date Petitioner entered ICE custody until his
15 April 22, 2026 scheduled merits hearing. To be clear, Petitioner is within his rights to request time to
16 seek counsel and to prepare his case, but the delays resulting from Petitioner's requests for repeated
17 continuances cut against Petitioner's argument that his detention has become unreasonably prolonged.
18 *See Demore*, 538 U.S. at 531 (acknowledging that the petitioner had been detained longer than the
19 average time for removal proceedings but also noting that the petitioner had requested a continuance of
20 his removal proceeding).

21 Courts have denied release for petitioners whose immigration proceedings have been pending
22 much longer than Petitioner's. For example, in *Keo*, this Court upheld continued detention for a
23 petitioner who had been held under Section 1226(c) for approximately 22 months. 2025 WL 1029392, at
24 *4. The Court concluded that the petitioner's continued detention without a bond hearing was
25 constitutional under the mandatory detention statute, so long as his ongoing removal proceedings
26 contemplated a "definite termination point" at the conclusion of those proceedings and his detention was
27 not indefinite. *Id.* at *6-8 (internal quotations omitted) (citing *Jennings*, 583 U.S. 304; *Demore*, 538
28 U.S. at 527, 538) ("... Petitioner's detention is not indefinite; there is a definite termination point at the

1 conclusion of his ongoing legal challenges. There is no indication that the ongoing removal proceedings
2 do not serve their intended purpose or are intended to incarcerate him for other reasons. Therefore, the
3 Court finds no due process violation in Petitioner's continued detention under § 1226(c) without a bond
4 hearing . . .").

5 Petitioner's case is also distinguishable from habeas petitions brought by petitioners who had
6 been released at the end of their criminal incarceration and later re-detained by ICE under 8 U.S.C.
7 § 1226(c), because Petitioner was transferred to ICE custody on the same day his criminal incarceration
8 ended. *See* ECF No. 1, ¶ 23. Courts have found a "meaningful distinction between a challenge to an
9 initial period of detention, at issue in *Demore*, and a challenge to *re-detention* after a court has
10 previously granted release on bond pending immigration proceedings." *Carballo v. Andrews, et. al*, No.
11 1:25-cv-00978-KES-EPG, at *7 (E.D. Cal. Aug. 15, 2025). "[T]he liberty interests of [an individual]
12 who is re-arrested differ from the liberty interests of a detained person." *Id.* (quoting *Guillermo M.R. v.*
13 *Kaiser*, No. 25-cv-05436-RFL, 2025 WL 1810076, at *1 (N.D. Cal. June 30, 2025)). "In the former
14 situation, where ICE detains an individual upon their release from a correctional facility, without any
15 substantial intervening period of release, that individual has no opportunity 'to form the [] enduring
16 attachments of normal life.'" *Id.* (quoting *Morrissey*, 408 U.S. at 482).

17 Combined, the mandatory nature of Petitioner's detention which has the "definite termination
18 point" of the conclusion of his removal proceedings, the role that Petitioner's requests for continuances
19 have played in the length of his immigration proceedings and detention, and the fact that Petitioner
20 entered ICE custody on the same day his criminal incarceration ended, lead to the conclusion that
21 Petitioner's detention has not become unreasonably prolonged and he has not obtained a protected
22 liberty interest. Alternatively, if the Court determines that Petitioner does have a protected liberty
23 interest to be free from ongoing detention, his interest is outweighed by Respondents' interests in
24 complying with Section 1226(c)'s mandatory detention provision and ensuring that Petitioner is
25 available for his immigration proceedings. As a result, this factor favors Respondents.

26 The second *Mathews* factor, the risk of an erroneous deprivation, also favors Respondents.
27 Petitioner's merits hearing is scheduled to take place in April of this year, providing Petitioner process
28 to seek to prevent his removal and ultimately to obtain relief that would support his release from

1 detention. In contrast to cases involving claims of indefinite detention, here, there is a definite
2 termination point for Petitioner's detention, which is the end of Petitioner's removal proceedings.
3 *Demore*, 538 U.S. at 29; *Jennings*, 583 U.S. at 304. This factor weighs in favor of Respondents.

4 Finally, the third *Mathews* factor, the government's interests, weighs in Respondents' favor.
5 Several government interests support continued detention. In addition to the government's overarching
6 interest in enforcing immigration laws, the Ninth Circuit has recognized that "the government clearly
7 has a strong interest in preventing aliens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). And, "[t]hrough detention, the
8 government likewise seeks to 'increas[e] the chance that, if ordered removed, the aliens will be
9 successfully removed.'" *Id.* (quoting *Demore*, 538 U.S. at 528). In addition, "[t]he risk of a detainee
10 absconding also inevitably escalates as the time for removal becomes more imminent." *Id.* These
11 interests weigh heavily in favor of the government and demonstrate, together with the other two
12 *Mathews* factors, that under that multi-factor test, Petitioner's detention complies with the Due Process
13 Clause.
14

15 b. The *Lopez* Test Does Not Favor Petitioner.

16 This Court periodically has applied its own test, identified in *Lopez v. Garland*, 631 F. Supp. 3d
17 870, 879 (E.D. Cal. 2022). Where this Court has applied *Lopez*, it has reasoned that *Mathews* is "more
18 suited to determining whether due process requires a second bond hearing." *Abdul-Samed*, 2025 WL
19 2099343, at *6. Under *Lopez*, the Court considers "the total length of detention to date, the likely
20 duration of future detention, and the delays in removal proceedings caused by the petitioner and the
21 government." *Id.* at 879.

22 As discussed in the analysis of the first *Mathews* factor, *supra* at 8-10, Petitioner has been
23 detained since May 2025, approximately nine months. However, courts should not apply a bright-line
24 test to the length of detention, consistent with Supreme Court precedent discussed above. The Court may
25 consider that Petitioner requested at least five continuances and a sixth hearing during which Petitioner
26 asserted he had obtained counsel was continued as well, and that his merits hearing is set for April of
27 this year. ICE did not request any hearing continuances and objected to two of Petitioner's continuance
28 requests, though the Immigration Judge granted both continuances. *See Decl.*, ¶¶ 16, 18; Exhs. 8, 10.

Moreover, Petitioner's detention has a definite termination point and his detention is not indefinite. The *Lopez* test favors Respondents.

V. CONCLUSION

For the reasons set forth above, Respondents respectfully request that the Court deny the Petition for Writ of *Habeas Corpus*.

Dated: February 12, 2026

ERIC GRANT
United States Attorney

By: /s/ JENNIFER A. DEINES
JENNIFER A. DEINES
Assistant United States Attorney