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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

Alejandra Naomi Gamarra Garcia, Petitioner, v. Fereti SEMAIA, in his official capacity as Warden Of GEO Group, Inc., a Florida corporation, operating the Adelanto ICE Processing Center; David Merin, in his official capacity as Field Office Director, U.S. Immigration and Customs Enforcement; Kristi NOEM, Secretary of the U.S. Department of Homeland Security; and Pamela BONDI, Attorney General of the United States, in their official capacities, Respondents.	Case No. _____ **PETITION FOR WRIT OF HABEAS CORPUS AND INJUNCTIVE RELIEF**

INTRODUCTION

1. This action seeks immediate habeas and injunctive relief to release Petitioner from unlawful detention. Petitioner is a noncitizen who was at liberty in the Los Angeles community seeking asylum with the United States Citizenship and Immigration Service. Without prior notice, without a hearing, and without any neutral determination that detention was justified, the Department of Homeland Security abruptly arrested Petitioner and deprived her of

her liberty. Petitioner always complied with the directives of immigration authorities. Such re-detention violates the Due Process Clause of the Fifth Amendment and exceeds DHS's statutory authority under 8 U.S.C. § 1226(a), which permits revocation of release only upon a material change in circumstances established through constitutionally adequate procedures. *See Clene C.D. v. Robbins, et al.* No. 1:25-cv-KES-SKO (HC) (E.D. Cal. Dec. 2, 2025); *Rodriguez Diaz v. Kaiser*, 2025 WL 3011852, at *1–3 (N.D. Cal.); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017). This United States District Court in the Eastern and Northern District as well as the United States Court of Appeal for the Ninth Circuit have repeatedly held that noncitizens released from civil immigration custody possess a substantial liberty interest and are entitled to notice and a pre-deprivation hearing before a neutral decision-maker prior to revocation of release, particularly where that liberty interest has accrued over time. *See Guillermo M.R. v. Kaiser*, No. 25-CV-05436, 2025 WL 1983677, at *1, *8 (N.D. Cal. July 17, 2025); *Pinchi v. Noem*, No. 25-CV-05632, 2025 WL 2084921, at *3, *5 (N.D. Cal. July 25, 2025); *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982). Absent immediate judicial intervention, Petitioner will continue to suffer irreparable harm from unlawful civil incarceration imposed without the constitutionally required pre-deprivation process. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). Accordingly, Petitioner seeks issuance of the writ and a temporary restraining order and preliminary injunction barring Respondents from continuing to unlawfully detain her and releasing her until there is showing by the government of a material change in circumstances warrant a re-arrest.

A bond redetermination hearing conducted only after Petitioner has already been re-arrested and reincarcerated does not satisfy due process because it impermissibly shifts the burden to Petitioner to prove a negative—namely, that she does not pose a danger to the

community or a risk of flight. Requiring Petitioner to seek release only after re-arrest—under a standard that presumes detention unless she proves otherwise—turns due process on its head by forcing Petitioner to disprove untested allegations while already incarcerated.

2. On December 10, 2025, Petitioner was arrested at an ICE check in despite having Filed an asylum application with the United States Citizenship and Immigration Service while at liberty. She always complied with her check in obligations and there are no material circumstances justifying detention.

3. Accordingly, to vindicate Petitioner's statutory rights under 8 U.S.C. section 1226(a) and constitutional rights under the Fifth Amendment to the United States Constitution, this Court should grant the instant petition for a writ of habeas corpus.

JURISDICTION

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

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

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

VENUE

7. Venue is proper because Petitioner is detained at the Adelanto ICE Processing Center, California, which is within the jurisdiction of this District.

8. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because

Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Central District of California Eastern Division.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

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

PARTIES

11. Petitioner, Alejandra Naomi Gamarra Garcia, is a noncitizen who is seeking asylum and related protections before a U.S. Immigration Court, which is controlled by the Executive Office of Immigration Review (EOIR). Petitioner is currently detained at the Adelanto ICE Processing Center.

12. Respondent Fereti SEMAIA is the Warden of GEO Group, Inc. a Florida corporation, operates the Adelanto ICE Processing Center and has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

13. Respondent David MERIN is sued in his official capacity as the Field Office Director of the Los Angeles Field Office of U.S. Immigration and Customs Enforcement. Respondent MERIN is a legal custodian of Petitioner and has authority to release Petitioner.

14. Respondent Kristi NOEM is sued in her official capacity as the Secretary of the U.S.

Department of Homeland Security (DHS). In this capacity, Respondent NOEM is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees all subordinate agencies within DHS, including U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent NOEM is a legal custodian of Petitioner.

15. Respondent Pamela BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent BONDI is a legal custodian of Petitioner.

STATEMENT OF FACTS

16. Petitioner, Alejandra Naomi Gamarra Garcia, is a 24-year-old native and citizen of Peru (DOB: [redacted]). She entered the United States on December 14, 2022, near Arizona. Petitioner was subsequently granted employment authorization valid from June 10, 2024 through June 9, 2029.[1] (Exh. A, Employment Authorization Card.)

17. Petitioner remained at liberty pending an interview with her asylum application and complied with all directives issued by immigration authorities. (Exh. B, Petitioner's Declaration.)

18. On December 10, 2025, Petitioner was detained after appearing for a scheduled appointment with immigration officials. (Exh. B.)

19. Since her detention, Petitioner has been held at the Adelanto Detention Center, where

[1] Category C08 denotes an asylum applicant who is not in removal proceedings. *See* United States Citizenship and Immigration Service webpage for "Employment Authorization" at https://www.uscis.gov/employment-authorization last accessed December 24, 2025.

she was denied pain medication for four days following recent surgeries on her arm and hand. She has also experienced breathing difficulties due to cold conditions in the facility, which have exacerbated her asthma. (Exh. B.)

20. According to the EOIR automated system, it appears that Petitioner was placed into removal proceedings before an Immigration Judge, as reflected by a docket date of December 16, 2025, suggesting that the Notice to Appear was filed by the Department of Homeland Security on that date.

21. On December 22, 2025, Petitioner was served with a Notice of Hearing scheduling her appearance before the Adelanto Immigration Court on January 6, 2026, at 8:00 a.m. (Exh. C., Notice of Hearing)

22. Petitioner's counsel does not possess the Notice to Appear filed with the Immigration Court, as it appears to have been served on Petitioner while she was in detention and before undersigned counsel undertook representation.

23. Petitioner filed this petition for a writ of habeas corpus seeking her immediate release from immigration detention because the Adelanto Immigration Court refuses to provide bond determination hearings based on a theory that all noncitizens in the United States are "arriving aliens" pursuant to 8 U.S.C. § 1225, rendering them categorically ineligible for bond determinations. (Exh. D, Bond Determination Decision.)

24. Petitioner's counsel has attempted to request bond determinations for individuals detained within the Adelanto Immigration Court's jurisdiction who have been previously denied such hearings.

25. Based on the information provided by Petitioner, it is unclear what authority

immigration officials are relying upon to detain her without bond or the opportunity for release on her own recognizance.

26. Petitioner's counsel anticipates that the government will assert that Petitioner is an "arriving alien" or "applicant for admission" pursuant to 8 U.S.C. § 1225(b) to justify her detention. That rationale has been found legally flawed in pending litigation, including *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873- SSS-BFM, Documents 81, 82 (C.D. Cal.)

27. Further, Petitioner asserts that she was denied due process because DHS failed to provide a pre-deprivation hearing to determine whether she posed a danger to the community or a flight risk based on any material change in circumstances since her initial release

LEGAL FRAMEWORK

28. "The King cannot just throw you into a dungeon in the United States." Attorney Cassandra Lopez, Al Otro Lado, *Lawyers using habeas corpus in last ditch efforts to free immigrants from detention*, KPBS.org, https://www.kpbs.org/news/border-immigration/2025/11/13/lawyers-using-habeas-corpus-in-last-ditch-efforts-to-free-immigrants-from-detention (November 13, 2025). "'It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.'" *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible

noncitizens. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious").

29. Due process requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

30. The Due Process Clause prohibits the government from revoking an existing grant of liberty without first providing notice and a meaningful opportunity to be heard, and that principle applies with full force where DHS seeks to re-detain a noncitizen previously released under 8 U.S.C. § 1226(a), 8 C.F.R. § 236.1(9). *See Rodriguez-Diaz v. Kaiser*, at *7 applying the rights of citizens on criminal parole in *Morrissey v. Brewer,* 408 U.S. 471, 481-82 (1972) to noncitizen civil immigration detainees in *Ortega v. Bonnar* , 415 F.Supp.3d 963, 939 (N.D. Cal. 2019). Once DHS has exercised its discretion to release a noncitizen into the community, a substantial liberty interest accrues, and detention becomes the exception rather than the rule. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). Courts in the Northern District have repeatedly held that DHS may not summarily revoke that liberty interest through re-arrest without first affording pre-deprivation process, including notice of the alleged violations or changed circumstances, a hearing before a neutral decision-maker, and a determination that a material change in circumstances justifies re-detention. *See Rodriguez Diaz v. Kaiser*, 2025 WL 3011852, at *6–8 (N.D. Cal. Sept. 16, 2025); *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, at *8 (N.D. Cal. July 17, 2025); *Pinchi v. Noem*, 2025 WL 2084921, at *3–5 (N.D. Cal. July 25, 2025). A post-arrest bond redetermination hearing does not cure the constitutional defect because it presumes detention and improperly places the burden on the

noncitizen to prove a negative—namely, that she is not a danger to the community or a flight risk—rather than requiring the government to justify the deprivation of liberty in the first instance. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *Guillermo M.R.*, 2025 WL 1983677, at *8. As the Supreme Court has long recognized in the parole-revocation context, due process requires that reincarceration be preceded by a hearing at which the government bears the burden of establishing that continued liberty is no longer warranted. *See Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982).

31. Due process requires that the government provide bond hearings to noncitizens facing prolonged detention. "The Due Process Clause foresees eligibility for bail as part of due process" because "[b]ail is basic to our system of law." *Jennings*, 138 S. Ct. at 862 (Breyer, J.,dissenting) (internal quotation marks omitted). While the Supreme Court upheld the mandatory detention of a noncitizen under Section 1226(c) in *Demore*, it did so based on the petitioner's concession of deportability and the Court's understanding at the time that detentions under Section 1226(c) are typically "brief." *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a prolonged period or ***is pursuing a substantial defense to removal or claim to relief, due process requires an individualized determination that such a significant deprivation of liberty is warranted***. *Id.* at 532 (Kennedy, J., concurring) ("[I]ndividualized determination as to his risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified")(emphasis added); *see also Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (holding that detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (holding that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (holding that, in the Eighth Amendment context, "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards"); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021) (holding that "the Due Process Clause imposes some form of reasonableness limitation upon the duration of detention" under section 1226(c)) (internal quotation marks omitted).

A. Petitioner's Detention Without A Hearing Demonstrating a Change in Circumstances to Warranting A Fear of Flight or Danger to the Community was Unconstitutional and Must Result in Her Immediate Release.

32. DHS's decision to detain Petitioner without first demonstrating that she presently poses a danger or risk of flight violates the core due-process principle that the government must justify a deprivation of liberty at the time it occurs. Where DHS has already exercised its discretion to release a noncitizen, courts in this District have held that the government bears the burden of establishing—before re-detention—that a material change in circumstances warrants renewed confinement. *Rodriguez Diaz v. Kaiser*, 2025 WL 3011852, at *6–8 (N.D. Cal.); *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, at *8 (N.D. Cal. July 17, 2025); *Pinchi v. Noem*, 2025 WL 2084921, at *3–5 (N.D. Cal. July 25, 2025). DHS cannot satisfy due process by detaining first and shifting the burden to the noncitizen in a post-arrest bond proceeding, which presumes detention and requires the noncitizen to prove the absence of danger or flight risk. *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *Guillermo M.R.*, 2025 WL 1983677, at *8.

33. This timing defect is constitutionally significant. As courts have explained, post-hoc procedures do not mitigate the risk of erroneous deprivation where the government had ample opportunity to provide notice and process in advance and where the loss of liberty was neither sudden nor unforeseeable. *Rodriguez Diaz*, 2025 WL 3011852, at *7–8; *Pinchi*, 2025 WL 2084921, at *5; *Vargas v. Jennings*, No. 20-CV-05785, 2020 WL 5043124, at *3–4 (N.D. Cal. Aug. 23, 2020). Allowing DHS to incarcerate first and litigate justification later inverts the constitutional order and creates an unacceptably high risk of error, particularly where, as here, DHS has never identified any facts demonstrating a change in Petitioner's circumstances since her prior release.

34. Because DHS failed to carry its burden to justify re-detention at the moment liberty was withdrawn, Petitioner's confinement no longer bears a reasonable relation to any legitimate civil purpose and violates due process. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). The appropriate remedy for this structural constitutional violation is not a belated hearing under a detention-presumptive framework, but Petitioner's immediate release

B. Petitioner Would be Eligible for Bond But For the Trump Administration's Unlawful Application of Immigration Detention Authorities.

35. Under INA § 236(a), 8 U.S.C. § 1226(a), the Attorney General has authority to arrest and detain "an alien pending a decision on whether the alien is to be removed from the United States," and may either continue detention or release the individual on bond of at least $1,500 or on conditional parole. Section 1226(a) is the "default rule" for detention and "applies to aliens already present in the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 288, 301 (2018).

36. Regulations implementing § 1226(a) provide that ICE makes the initial custody determination, but that a noncitizen detained under § 1226(a) "may request a bond redetermination by an immigration judge at any time before a removal order becomes final." 8 C.F.R. §§ 236.1(d)(1), 1003.19. Noncitizens detained under § 1226(a) "are entitled to receive bond hearings at the outset of detention," including an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by counsel and present evidence, and the right to appeal and seek subsequent hearings based on materially changed circumstances.

37. Here, the Notice to Appear charges Petitioner as an alien "present in the United States who has not been admitted or paroled" and places Petitioner in removal proceedings. Petitioner is not an arriving alien, has no disqualifying criminal convictions, and is therefore not subject to mandatory detention under INA § 236(c) or INA § 235(b). Rather, Petitioner falls squarely within the class of noncitizens detained under § 1226(a), for whom Congress explicitly authorized bonds and IJ custody review.

C. Petitioner Currently Has No Access to an Individualized Review of Detention in Immigration Court.

38. In July 2025, DHS, in coordination with the Department of Justice, issued an "Interim Guidance Regarding Detention Authority for Applicants for Admission," purporting to treat any person arrested in the United States and charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as an "applicant for admission" subject to mandatory detention under INA § 235(b)(2)(A). Under this guidance, ICE officers and Immigration Judges were directed to treat interior arrests like Petitioner's as if they were arriving aliens, thus denying them IJ bond hearings and relying on INA § 235(b) and 8 C.F.R. § 235.3(b).

39. Multiple federal district courts have now rejected that policy and held that § 1226(a)—not § 1225(b)(2)(A)—governs detention of noncitizens who are physically present in the United States and charged under § 1182(a)(6)(A)(i), even when DHS labels them "applicants for admission." *See, e.g.*, *Pizarro Reyes v. Raycraft*, 23-cv-12546 (S.D. Mich.)(September 9, 2025), where the court held that "it is clear that § 1226(a) governs [the noncitizen's] detention, not § 1225(b)(2)(A)," after reviewing the statute's history and consistent application to noncitizens who entered without inspection but reside in the interior.

40. Most recently, in *Maldonado Bautista et al. v. Santacruz et al.*, 25-cv-01873-SSS-BFM (C.D. Cal.) (November 20, 2025), the U.S. District Court for the Central District of California granted partial summary judgment to a class of plaintiffs arrested in Southern California raids and charged under § 1182(a)(6)(A)(i), holding that DHS's July 8, 2025 guidance unlawfully attempted to collapse § 1226(a) into nonexistence by broadly reclassifying interior arrests as "applicants for admission" under § 1225(b)(2). The court emphasized that Congress maintained a clear structural distinction between § 1225 (governing applicants for admission at the border) and § 1226 (governing noncitizens already present in the United States in removal proceedings), and that absent Congressional repeal, the Attorney General's duty under § 1226(a) to either continue detention or consider release on bond continues to apply. Petitioner is a member of the *Maldonado Bautista* class, and Respondents are subject to the Court's judgment

in that case. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

41. These decisions confirm that DHS's now-invalidated policy cannot strip an immigration court of its longstanding jurisdiction to conduct bond hearings under § 1226(a) for noncitizens like Petitioner, who are arrested in the interior, charged under § 212(a)(6)(A)(i), and placed in § 240 proceedings. Nevertheless, Petitioner is not being accorded the opportunity seek bond from a "neutral" arbiter in the immigration system.

42. Thus, this Court is Petitioner's only hope at obtaining such a review, and Petitioner has no faith in obtaining such a neutral review before the immigration court. Petitioner's case fits precisely within the class protected by the rulings in cases like *Maldonado Bautista*: Petitioner is not an arriving alien, and Petitioner is now in removal proceedings where there has been no final order of removal. Accordingly, an immigration court under a normal administration would retain jurisdiction under § 1226(a) and 8 C.F.R. §§ 236.1(d)(1) and 1003.19 to conduct a bond redetermination and set an appropriate bond. That is not the current situation in immigration court, and Petitioner must now challenge continued detention before this honorable court.

D. Courts Have Established Limits to the Executive Branch's Ability to Detain People for Lengthy Periods of Time.

43. Detention without a bond hearing is unconstitutional when it exceeds six months. *See Demore*, 538 U.S. at 529-30 (upholding only "brief" detentions under Section 1226(c),[2] which last "roughly a month and a half in the vast majority of cases in which it is invoked, and about five months in the minority of cases in which the [noncitizen] chooses to appeal"); *Zadvydas*, 533 U.S. at 701 ("Congress previously doubted the constitutionality of detention for more than

[2] It is important to note that Demore is not directly applicable to Petitioner's case, because Petitioner is subject to detention under 1226(a), not 1226(c). The Petitioner in Demore was a Legal Permanent Resident who had been detained after suffering a burglary conviction. Petitioner has no criminal history. Counsel merely offer's this discussion as a demonstration that Courts have found that the Executive does not have the unfettered ability to toss people into custody and throw away the key.

six months."); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1091 (9th Cir. 2022) ("[O]nce the [noncitizen] has been detained for approximately six months, continuing detention becomes prolonged" (cleaned up) (quoting *Diouf v. Napolitano*, 634 F.3d 1081, 1091 (9th Cir. 2011))); *Rodriguez v. Nielsen*, Case No. 18-CV-04187-TSH, 2019 WL 7491555, at *6 (N.D. Cal. Jan. 7, 2019) ("[D]etention becomes prolonged after six months and entitles [Petitioner] to a bond hearing").

44. The recognition that six months is a substantial period of confinement—and is the time after which additional process is required to support continued incarceration—is deeply rooted in our legal tradition. With few exceptions, "in the late 18th century in America crimes triable without a jury were for the most part punishable by no more than a six-month prison term." *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this tradition, the Supreme Court has found six months to be the limit of confinement for a criminal offense that a federal court may impose without the protection afforded by jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a benchmark in other contexts involving civil detention. *See McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249, 250-52 (1972) (recognizing six months as an outer limit for confinement without individualized inquiry for civil commitment). The Court has likewise recognized the need for bright line constitutional rules in other areas of law. *See Maryland v. Shatzer*, 559 U.S. 98, 110 (2010) (holding that 14 days must elapse following invocation of Miranda rights before re-interrogation is permitted); *Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 55-56 (1991) (holding that a probable cause hearing must take place within 48 hours of warrantless arrest).

E. Even Absent A Bright-Line Six-Month Standard, An Individualized Bond Hearing Is Required When Detention Becomes Unreasonably Prolonged.

45. Petitioner's detention, without any individualized review, is unreasonable under the *Mathews v. Eldridge* due process test—no matter how long its been given the basis for Petitioner's detention. Alternatively, Petitioner prevails under the multi-factor reasonableness

test the Third Circuit adopted in *German Santos v. Warden Pike Correctional Facility*, 965 F.3d 203, 211 (3d Cir. 2020).

46. Each year, thousands of noncitizens are incarcerated for lengthy periods pending the resolution of their removal proceedings. *See Jennings*, 138 S. Ct. at 860 (Breyer, J., dissenting) (observing that class members, numbering in the thousands, had been detained "on average one year" and some had been detained for several years). For noncitizens who have some criminal history, their immigration detention often dwarfs the time spent in criminal custody, if any. *Id.* ("between one-half and two-thirds of the class served [criminal] sentences less than six months").

47. Petitioner faces severe hardships while detained by ICE. Petitioner is held in a locked down facility, with limited freedom of movement and access to Petitioner's family or support network: "[T]he circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez–Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016). "And in some cases the conditions of their confinement are inappropriately poor" including, for example, "invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Press Release, Off. of Inspector Gen., Dept. of Homeland Sec., DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (Dec. 14, 2017)); *see also* Tom Dreisbach, Government's own experts found 'barbaric' and 'negligent' conditions in ICE detention, NPR (Aug. 16, 2023, 5:01 AM) (reporting on the "'negligent' medical care (including mental health care), 'unsafe and filthy' conditions, racist abuse of detainees, inappropriate pepper-spraying of mentally ill detainees and other problems that, in some cases, contributed to detainee deaths" contained in inspection reports prepared by experts from the Department of Homeland Security's Office for Civil Rights and Civil Liberties

after examining detention facilities between 2017 and 2019). Individuals at Golden State Annex Detention Facility have described receiving food contaminated with insects (including cockroaches, flies, and spiders), hair, and other foreign objects. See California Collaborative for Immigrant Justice, Starving for Justice: The Denial of Proper Nutrition in Immigration Detention, at p. 7 (April 2022), available at https://www.ccijustice.org/_files/ugd/733055_c43b1cbbdda341b894045940622a6dc3.pdf. At Mesa Verde Detention Facility, over 80% of detained individuals who responded to one survey said they had received expired food. *Id.*

48. The *Mathews* test for procedural due process claims balances: (1) the private interest threatened by governmental action; (2) the risk of erroneous deprivation of such interest and the value of additional or substitute safeguards; and (3) the government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *see also Salesh P.*, 2022 WL 17082375, at *8 (collecting cases where judges in the Northern District of California applied the *Mathews* factors to a habeas petitioner's due process claims). Here, each factor weighs in Petitioner's favor, requiring this Court to promptly hold a hearing to evaluate whether the government can justify Petitioner's ongoing detention.

49. First, Petitioner indisputably has a weighty interest in Petitioner's liberty, the core private interest at stake here. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment. . . lies at the heart of the liberty [the Due Process Clause] protects."). Petitioner, who is being held in "incarceration-like conditions," has an overwhelming interest here, regardless of the length of Petitioner's immigration detention, because "any length of detention implicates the same" fundamental rights. *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at *6 (N.D. Cal. Dec. 22, 2020).

50. Second, Petitioner will suffer the erroneous risk of deprivation of their liberty without an individualized evidentiary hearing. The risk of erroneous deprivation of their liberty is high, as Petitioner has been detained since December 10, 2025 without any evaluation of whether the government can justify detention under Petitioner's individualized circumstances. Petitioner's

motion for bond redetermination was denied for lack of jurisdiction, thus, never reaching the merits of release on bond. "[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is substantial." *Diouf*, 634 F.3d at 1092. Conversely, "the probable value of additional procedural safeguards—an individualized evaluation of the justification for his detention—is high, because Respondents have provided virtually no procedural safeguards at all." *Jimenez v. Wolf,* No. 19-cv-07996-NC, 2020 WL 510347, *3 (N.D. Cal. Jan. 30, 2020) (granting habeas petition for person who had been detained for one year without a bond hearing).

51. Third, the government's interest is very low in continuing to detain Petitioner without providing any neutral review. *See Mathews*, 424 U.S. at 335. The specific interest at stake here is not the government's ability to continue to detain Petitioner, but rather the government's ability to continue to detain them for months on end without any individualized review. *See Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 964 (N.D. Cal. 2019); *Henriquez v. Garland*, No. 5:22-CV-00869-EJD, 2022 WL 2132919, at *5 (N.D. Cal. June 14, 2022). The cost of providing an individualized inquiry is minimal. *See Henriquez*, 2022 WL 2132919, at *5. The government has repeatedly conceded this fact in cases past. *See Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019); *Singh v. Barr*, 400 F. Supp. 3d 1005, 1021 (S.D. Cal. 2019); *Marroquin Ambriz*, 420 F. Supp. 3d at 964.

52. In sum, the *Mathews* factors establish that Petitioner is entitled to an evidentiary hearing before a neutral adjudicator. Unsurprisingly, courts applying these standards at the district and appellate level have repeatedly held that prolonged detention without a hearing before a neutral adjudicator violates procedural due process for individuals who were held under the same detention statute. *See, e.g.*, *Romero Romero v. Wolf*, No. 20-CV-08031-TSH, 2021 WL 254435, at *2, *5 (N.D. Cal. Jan. 26, 2021) (holding that the petitioner's detention under § 1226(c) of just over one year without a custody hearing was "not compatible with due process" and granting habeas); *Jimenez*, 2020 WL 510347, at *1, *2, *4 (holding that the petitioner's detention under § 1226(c) of just over one year without a custody hearing violated his due

process rights and granting habeas); *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, at *1, *5 (N.D. Cal. Jan. 25, 2019) (holding that the petitioner's detention under § 1226(c) for just over one year without a custody hearing violates his due process rights and granting habeas). This Court should so hold as well.

53. *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022), does not disturb this result. In *Rodriguez Diaz*, the Ninth Circuit applied the *Mathews* test to hold that the detention of a noncitizen detained under a different detention statute, 8 U.S.C. § 1226(a), did not violate procedural due process. 53 F.4th at 1195. Unlike § 1226(c), § 1226(a) mandates that detained individuals receive an individualized bond hearing at the outset of detention and provides for further bond hearings upon a material change in circumstances. *See* 8 C.F.R. § 1003.19(e). The panel's decision in *Rodriguez Diaz* was predicated on the immediate and ongoing availability of this administrative process under § 1226(a). 53. F.4th at 1202 ("Section 1226(a) and its implementing regulations provide extensive procedural protections that are unavailable under other detention provisions . . . .").

F. Petitioner's Continued Detention is Unreasonable By Any Standard Applied by the Court.

54. Courts that apply a reasonableness test have considered four non-exhaustive factors in determining whether detention is reasonable. *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 210-22 (3d Cir. 2020). The reasonableness inquiry is "highly fact-specific." *Id.* at 210. "The most important factor is the duration of detention." *Id.* at 211; *see also Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, at *1, *5 (N.D. Cal. Jan. 25, 2019) (concluding that the petitioner's detention under § 1226(c) for just over one year without a custody hearing weighed strongly in favor of finding detention unreasonable, and violated his due process rights and granting habeas). Duration is evaluated along with "all the other circumstances," including (1) whether detention is likely to continue, (2) reasons for the delay, and (3) whether the conditions of confinement are meaningfully different from criminal punishment. *Id.* at 211.

55. As noted, Petitioner's detention is likely to continue as Petitioner asserts Petitioner's right to seek immigration relief. Noncitizens should not be punished for pursuing "legitimate proceedings" to seek relief. *See Masood v. Barr*, No. 19-CV-07623-JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020) ("[I]t ill suits the United States to suggest that [Petitioner] could shorten his detention by giving up these rights and abandoning his asylum application."). Thus, courts should not count a continuance against the noncitizen when they obtained it in good faith to prepare their removal case, including efforts to obtain counsel. *See Hernandez Gomez*, 2023 WL 2802230, at *4 ("The duration and frequency of these requests [for continuances] do not diminish his significant liberty interest in his release or his irreparable injury of continued detention without a bond hearing."). Moreover, Petitioner's confinement and experiences at a facility operated by a private, for-profit prison contractor, demonstrate that their conditions of confinement are not meaningfully different from those of criminal punishment.

G. At Any Hearing, The Government Must Justify Ongoing Detention By Clear And Convincing Evidence.

56. At a bond hearing, due process requires certain minimum protections to ensure that a noncitizen's detention is warranted: the government must bear the burden of proof by clear and convincing evidence to justify continued detention, taking into consideration available alternatives to detention; and, if the government cannot meet its burden, the noncitizen's ability to pay a bond must be considered in determining the appropriate conditions of release.

57. To justify prolonged immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Aleman Gonzalez v. Barr*, 955 F.3d 762, 781 (9th Cir. 2020), *rev'd on other grounds by Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 213 L. Ed. 2d 102 (2022) ("*Jennings*'s rejection of layering [the clear and convincing burden of proof standard] onto § 1226(a) as a matter of statutory construction cannot . . . undercut our constitutional due process holding in *Singh*."); *Doe v. Garland*, No. 3:22-CV-03759-JD, 2023 WL 1934509, at *2 (N.D. Cal. Jan. 10, 2023) (applying *Singh* and holding that the government

shall bear the burden in a constitutionally required bond hearing in the § 1226(c) context); *Pham v. Becerra*, No. 23-CV-01288-CRB, 2023 WL 2744397, at *7 (N.D. Cal. Mar. 31, 2023) (same); *Hernandez Gomez v. Becerra*, No. 23-CV-01330-WHO, 2023 WL 2802230, at *4 (N.D. Cal. Apr. 4, 2023) (same); *Martinez Leiva v. Becerra*, No. 23-CV-02027-CRB, 2023 WL 3688097, at *9 (N.D. Cal. May 26, 2023); *I.E.S. v. Becerra*, No. 23-CV-03783-BLF, 2023 WL 6317617, at *10 (N.D. Cal. Sept. 27, 2023) (same); *Singh Grewal v. Becerra*, No. 23-CV-03621-JCS, 2023 WL 6519272, at *8 (N.D. Cal. Oct. 4, 2023) (same); *Gomez v. Becerra*, No. 23-CV-03724-JCS, 2023 WL 6232236, at *9 (N.D. Cal. Sept. 25, 2023) (same); *Henriquez v. Garland*, No. 23-CV-01025-AMO, 2023 WL 6226374, at *4 (N.D. Cal. Sept. 25, 2023) (same); *Rodriguez Picazo v. Garland*, No. 23-CV-02529-AMO, 2023 WL 5352897, at *7 (N.D. Cal. Aug. 21, 2023) (same).

58. Where the Supreme Court has permitted civil detention in other contexts, it has relied on the fact that the Government bore the burden of proof by at least clear and convincing evidence. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention after a "full-blown adversary hearing" requiring "clear and convincing evidence" and "a neutral decisionmaker"); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, inter alia, they placed burden on detainee).

59. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). First, "an individual's private interest in 'freedom from prolonged detention' is 'unquestionably substantial.'" *See Rodriguez Diaz,* 53 F.4th at 1207 (citing *Singh*, 638 F.3d at 1208). Second, detained noncitizens are incarcerated in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing. Third, placing the burden on the government imposes minimal cost or inconvenience to it, as the government has access to the noncitizen's

immigration records and other information that it can use to make its case for continued detention.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

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

2. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

3. To justify Petitioner's detention, due process requires that the government establish, at an individualized hearing before a neutral decision maker, that Petitioner's detention is justified by clear and convincing evidence of flight risk or danger, taking into account whether alternatives to detention could sufficiently mitigate that risk.

4. This hearing was to take place *before* Petitioner's detention, but it did not occur.

5. For these reasons, Petitioner's ongoing prolonged detention without a hearing violates due process.

COUNT TWO

Violation of 8 U.S.C. § 1226(a): Request for Relief Pursuant to *Maldonado Bautista*

6. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

7. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

8. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

9. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

10. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

PRAYER FOR RELIEF

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

A. Assume jurisdiction over this matter;

B. Issue a Temporary Restraining Order prohibiting Respondents from moving Petitioner to another facility outside of this District pending the outcome of these proceedings;

C. Issue a Temporary Restraining Order releasing Petitioner from Respondents' custody.

D. Issue a Writ of Habeas Corpus, hold a hearing before this Court if warranted, determine that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of available alternatives to detention, and order Petitioner's release (with appropriate conditions of supervision if necessary), taking into account Petitioner's ability to pay a bond;

E. In the alternative, issue a Writ of Habeas Corpus and order Petitioner's release within 10 days unless Respondents schedule a hearing before an immigration judge where: (1) to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the government cannot meet its burden, the immigration judge order Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond;

F. Issue a declaration that Petitioner's ongoing continued detention violates the Due Process Clause of the Fifth Amendment and issue an Order for Petitioner's Release with Prejudice;

G. Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

H. Grant such further relief as the Court deems just and proper.

Dated: December 24, 2025

Respectfully submitted,

/s/ *Mario Salgado*
Mario Salgado
Counsel for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Alejandra Naomi Gamarra Garcia, and submit this verification on Petitioner's behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 24, 2025.

Respectfully Submitted:

s/*Mario Salgado*
Mario Salgado

CERTIFICATE OF SERVICE

I, Mario Salgado, am over the age of 18 years and maintain a business address located at 605 Market Street Suite 1111 in San Francisco, California 94105. I mailed the **PETITION FOR HABEAS CORPUS AND INJUNCTIVE RELIEF** to:

1. Fereti SEMAIA, GEO Group, Inc. Attn: Corporate Creations Network Inc. [C2250455] 7801 Folsom Boulevard, #202 Sacramento, CA 95826

2. Kristi NOEM, Secretary of the Department of Homeland Security, Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.

3. Pamela BONDI, U.S. Attorney General, U.S. Department of Justice; 950 Pennsylvania Avenue, NW; Washington, D.C. 20530-0001

4. Civil Process Clerk & United States Attorney's Office for the Central District of California; 300 N. Los Angeles St. Suite 7516, Los Angeles, CA 90012.

5. David MERIN, Field Office of Immigration and Customs Enforcement, Enforcement and Removal Operations, Department of Homeland Security, Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

Date: December 24, 2025

/s/ Mario Salgado
Mario Salgado, Esq.
SALGADO & PERALTA, P.A.