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2:26-cv-00388-CDS-NJK

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

JOEL JERONIMO MARTIN
ALIEN No. 
PETITIONER, PRO SE
CUSTODY STATUS: DETAINED

Joel Jeronimo Martin
Alien N 
Nevada Southern Detention Center
2190 East Mesquite Avenue
Pahrump, Nevada 89060

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOEL JERONIMO MARTIN,
-Petitioner, *Pro Se*,

v.

THE UNITED STATES OF AMERICA,

Kristi NOEM, in her Official Capacity,
Secretary of the Department of Homeland Security,

Pamela J. BONDI, in her Official Capacity,
Attorney General, Department of Justice,

Kerri Ann QUIHUIS, in her Official Capacity,
ICE Field Office Director, Detention and Removal,
Las Vegas, Nevada (ICE Local)

Michael BERNACKE, in his Official Capacity,
Field Office Director, Salt Lake City Field Office,
U.S. Immigration and Customs Enforcement,

Todd LYONS, in his Official Capacity,
Acting Director, Immigration & Customs Enforcement,

John MATTOS, in his Official Capacity,
Warden of Immigration Detention Facility,
Nevada Southern Detention Center;

-Respondents.

Case No.:

INS.: 

Custody Status: **DETAINED**

**Petition for Writ of Habeas
Corpus Pursuant to
28 U.S.C. § 2241**

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

COMES NOW JOEL JERONIMO MARTIN, as the Petitioner in this present matter, appearing *Pro Se*, and hereby respectfully petitions this Honorable District Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

The Petition for Writ Habeas Corpus relief of Joel Jeronimo Martin respectfully shows:

INTRODUCTION

1. Petitioner's full name is Joel Jeronimo Martin, and he is a citizen of Mexico who is currently being physically detained under the full custody of the Respondents, including the Department ("DHS/ICE") at the Nevada Southern Detention Center ("NSDC") in Pahrump, Nevada.
2. Petitioner, also referred to as Mr. Jeronimo Martin, seeks relief in the form of Asylum, Withholding of Removal, and Convention Against Torture ("CAT"). However, on April 18, 2025, the Immigration Judge ("IJ") denied all forms of relief.
3. Subsequently, Petitioner timely appealed to the Ninth Circuit Court of Appeals. *See Jeronimo-Martin v. Bondi*, Case No. 25-2551.
4. Petitioner has been detained in custody since February, 2025, over twelve ("12") months—one year—to the present day.
5. Upon information and belief, Petitioner respectfully moved for a bond hearing on or about April, 2025.
6. The Immigration Court held a bond hearing in Las Vegas, Nevada where Petitioner was denied bond based on lack jurisdiction.
7. Interestingly, Petitioner's bond proceeding case is meritorious as it presents a highly likelihood of success on the merits because he has significant favorable factors.

1 8. Yet, the Immigration Court denied bond based on lack of jurisdiction. Then second
2 bond request was submitted in May, 2025, where it was also denied.

3 9. As such, Petitioner was not afforded a fair bond hearing wherein the government must
4 establish by a constitutional, due process, standard of *clear and convincing* evidence
5 that Petitioner presents a risk of flight or danger to the community.

6 10. Petitioner therefore respectfully requests that this Court issue a Writ of Habeas Corpus,
7 and determine that Petitioner's indefinite detention is not justified because the
8 government has not established by *clear and convincing* evidence that Petitioner
9 presents a risk of flight or danger in light of reasonable available alternatives to
10 detention, and order Petitioner's release, with appropriate conditions of supervision if
11 necessary, taking into account Petitioner's ability to pay a bond.

12 11. Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus and order
13 Petitioner's release within twenty ("20") days unless Respondents schedule a hearing
14 before immigration judge where it has proper jurisdiction and where: (1) to continue
15 detention, the government must establish by *clear and convincing* evidence that
16 Petitioner present a risk of flight or current public danger, even after consideration of
17 alternatives to detention that could mitigate any risk that Petitioner's release would
18 present; and (2) if the government cannot meet its heavy burden, the immigration judge
19 orders Petitioner's release on appropriate conditions of supervision, taking into account
20 Petitioner's ability to pay a reasonable bond.

21 **PARTIES**

22 12. Petitioner is a native and citizen of Mexico. Petitioner is seeking political asylum,
23 withholding of removal, protection under the Convention Against Torture ("CAT")
24 motivated by a well-founded fear of persecution and torture.

1 **13.** Respondent, UNITED STATES OF AMERICA, issued pursuant to 5 U.S.C. § 703, in
2 which the Administrative Procedures Act provides “[i]f no special statutory review
3 proceeding is applicable, the action for judicial review may be brought against the
4 United States, the agency by its official title, or the appropriate officer.”

5 **14.** Respondent, Kristi NOEM is sued in her official capacity as the Secretary of the
6 Department of Homeland Security (herein after referred to as “DHS”). In her capacity
7 he has the responsibility for administration and enforcement of the immigration laws
8 pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. 296, 116
9 Stat. 2135 (Nov. 25, 2002). *See Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003).

10 **15.** Respondent Pamela J. BONDI is sued in her official capacity as the Attorney General
11 of the United States. She has responsibility for the administration and enforcement of
12 the immigration laws pursuant to 8 U.S.C. § 1103, and Immigration and Nationality
13 Act § 103. As the “INA” has not been amended to reflect the designation of the
14 Secretary of the DHS as the administrator and enforcer of the immigration laws. In this
15 case, Respondent Pamela J. BONDI is sued in her official capacity to the extent that 8
16 U.S.C. § 1102 gives her the authority to detain Petitioner. *See Armentero v. INS*, *supra*.
17 Thus, Pamela J. BONDI is considered a legal custodian of Joel Jeronimo Martin.

18 **16.** Respondent Kerri Ann QUIHUIS is sued in her official capacity as ICE Field Office
19 Director, Detention and Removal, DHS at Las Vegas, Nevada (ICE Local), who is
20 responsible for the day-to-day operation of detaining and removing aliens in Las Vegas,
21 Nevada.

22 **17.** Respondent, Michael BERNACKE is the Field Office Director responsible for the Salt
23 Lake City Field Office of ICE Enforcement and Removal Operations, which has
24 administrative jurisdiction over Petitioner’s case. He is a legal custodian of Mr. Joel

1 Jeronimo Martin and is named in his official capacity.

2 **18.** Respondent, Todd LYONS is Acting Director of ICE. As the head of ICE, an agency
3 within the U.S. Department of Homeland Security that detains and removes certain
4 noncitizens, Respondent Todd LYONS is a legal custodian of Mr. Jeronimo Martin and
5 he is named in his official capacity.

6 **19.** Respondent, John MATTOS, Warden of Nevada Southern Detention Center, where
7 Petitioner is currently detained under the authority of ICE, alternatively he may be
8 considered to be Petitioner's immediate custodian.

9 **20.** The Respondents in this action are the legal custodian of Petitioner and are named in
10 their official capacity

11 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12 **21.** This is a case where the Immigration Court denied bond based on lack of jurisdiction.

13 **22.** Yet, for the very reason why the Immigration Judge denied bond for lack of jurisdiction,
14 the Board will most likely adopt the IJ's decision and affirm the denial for bond based
15 on lack of jurisdiction. Thus, an appeal to the Board would be futile.

16 **23.** Consequently, Petitioner need not exhaust his administrative remedies. The statute in
17 question, 8 U.S.C. § 1231(a)(6), has no exhaustion requirement. Exhaustion is required
18 only when Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144
19 (1992).

20 **24.** In all other instances, "sound judicial discretion governs." *Id.* This Court should not
21 require Petitioner to exhaust his administrative remedies.

22 **25.** Petitioner is being held under mandatory detention without a bond hearing.

23 **26.** Even if Petitioner would move for such an appeal, it would be futile as the Las Vegas
24 Immigration Court does not hold proper jurisdiction.

1 **31.** Venue is additionally proper in this Court because the Petitioner is detained in this
2 District, and pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
3 484, 493-500(1973). Also, a substantial part of the events giving rise to the claims in
4 this action took place within this District.

5 **REQUIREMENTS OF 28 U.S.C. § 2243**

6 **32.** It has been held that The Court must grant the petition for writ of habeas corpus or issue
7 an order to show cause (“OSC”) to Respondents “forthwith”, unless Petitioner is not
8 entitled to relief. 28 U.S. § 2243. If the Court issues an OSC, it must require
9 Respondents to file a return “within *three days* unless for good cause additional time,
10 not exceeding twenty days, is allowed.” *Id.* (emphasis added).

11 **33.** Courts have long recognized the significance of the habeas statute in protecting
12 individuals from unlawful detention. The Great Writ affords “*a swift and imperative*
13 *remedy* in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400
14 (1963) (emphasis added); *see also Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)
15 (explaining that habeas statute requires expeditious determination of petitions

16 **STATEMENT OF THE FACTS**

17 **34.** Petitioner, Mr. Jeronimo Martin is a native, citizen and national of Mexico.

18 **35.** Petitioner suffered past persecution and torture in Mexico at the hands of gangs and
19 government officials.

20 **36.** Petitioner pursues political asylum and CAT protection due to the worsening country
21 and political conditions in Mexico. Petitioner seeks to remain in the United States in a
22 lawful manner.

23 **37.** Again, Petitioner submitted a motion for a bond hearing which resulted in the
24 Immigration Court (“IC”) denying bond on the sole basis that it lacked jurisdiction.

1 38. Again, a second bond request was submitted to the IC where it denied his request.

2 **CRIMINAL HISTORY**

3 39. Here, Petitioner does not have a felony conviction, or anything close to relevant here
4 in the United States. Petitioner is a responsible working-man without any involvement
5 in any illegal activity and lives a law-abiding lifestyle.

6 40. Further, Petitioner does not exhibit any history of violent behavior or violent criminal
7 history. Conversely, he has demonstrated excellent behavior while detained and in the
8 last twelve-months and has no disciplinary actions against him while detained.

9 41. Petitioner has shown commendable willingness to reintegrate to day-to-day society
10 once released. Petitioner lacks felony convictions in the US and has not been afforded
11 a bond hearing where it comports with due process and the IJ holds proper jurisdiction.

12 42. The following positive factors are also important to consider. Petitioner is not a threat
13 to national security, has no history of such activity and presents no danger to public
14 safety. Here, Petitioner does not have any pending criminal charges or any “aggravated
15 felony” convictions. Petitioner has not participated in a criminal street gang and does
16 not have any gang related conviction as defined under in 18 U.S.C. § 521(a).

17 43. Based on the totality of these compelling mitigating factors, it demonstrates that
18 Petitioner merits, at the very least, a fair and impartial bond hearing where the
19 immigration court has proper jurisdiction.

20 **PROCEDURAL HISTORY**

21 44. On April 18, 2025, the IJ denied asylum, withholding of removal, deferral of removal
22 and protection under CAT.

23 45. Subsequently, Petitioner timely moved for petition for review. *See Jeronimo-Martin v.*
24 *Bondi*, Case No. 25-2551.

46. On or about February, 2025, Petitioner was arrested by ICE, when he was served with a notice to reinstate his prior removal order.

47. Petitioner was afforded an interview with an Asylum Officer where the officer found a negative credible fear. Petitioner went before an immigration judge for a reasonable fear hearing where the immigration judge affirmed the asylum officer's negative credible fear determination. Consequently, the IJ denied protection relief.

48. Petitioner timely filed for judicial review to the Ninth Circuit Court of Appeals, which is currently pending.

ARGUMENT

49. “It is well established that the Fifth Amendment entitles aliens 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 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 included 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) (“both removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious”).

50. Due process therefore 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.” *Id.* at 690. Civil commitment for *any* purpose constitutes a significant deprivation of liberty.

1 *Addington v. Texas*, 441 U.S. 418, 425 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). In the
2 immigration context, the Supreme Court has recognized only two valid purposes for
3 civil detention—to mitigate the risks of danger to the community and to prevent flight.
4 *Id.*; *Demore*, 538 U.S. at 528.

5 **51.** Following *Zadvydas* and *Demore*, every circuit court of appeals to confront the issue
6 had found either the immigration statutes or due process require a hearing for
7 noncitizens subject to unreasonably prolonged detention pending removal proceedings.
8 *See Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020) (8 U.S.C. § 1226(a)); *Reid*
9 *v. Donelan*, 819 F.3d 486 (1st Cir. 2016) (8 U.S.C. § 1226(c)); *Sopo v. U.S. Attorney*
10 *Gen.*, 825 F.3d 1199 (11th Cir. 2016) (detention under 8 U.S.C. § 1226(c)); *Lora v.*
11 *Shanahan*, 804 F.3d 601 (2d Cir. 2015) (8 U.S.C. § 1226(c)); *Rodriguez v. Robbins*
12 (*Rodriguez III*), 804 F.3d 1060 (9th Cir. 2015) (8 U.S.C. § 1226(c) and 8 U.S.C. §
13 1225(b)); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011) (8 U.S.C. §
14 1226(c)); *Diouf v. Holder (Diouf II)*, 634 F.3d 1081 (8 U.S.C. § 1231(a)); *Ly v. Hanse*,
15 351 F.3d 263 (6th Cir. 2003) (8 U.S.C. § 1226(c)) (requiring release when mandatory
16 detention exceeds a reasonable period of time).

17 **52.** While the Supreme Court upheld the mandatory detention of a noncitizen under Section
18 1226(c) in *Demore*, it did so based upon the petitioner’s concession of deportability
19 and the Court’s understanding that detentions under Section 1226(c) are typically
20 “brief”. *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a
21 prolonged period or is pursuing a substantial defense to removal or claim to relief, due
22 process requires an individualized determination that such a significant deprivation of
23 liberty is warranted. *Id.* at 532 (Kennedy, J., concurring) (“individualized
24 determination as to his risk of flight and dangerousness” may be warranted “if the

1 continued detention became unreasonable or unjustified”). *See also, Jackson v.*
2 *Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the “initial commitment” requires
3 additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972)
4 (“lesser safeguards may be appropriate” for “short term confinement”); *Hutto v.*
5 *Finney*, 437 U.S. 678, 685-86 (1978) (in Eighth Amendment context, “the length of
6 confinement cannot be ignored in deciding whether [a] confinement meets
7 constitutional standards”).

8 **53.** This Court should grant this Habeas Corpus petition on the grounds that detention
9 without a proper bond hearing is unconstitutional when it exceeds six-months. *See*
10 *Demore*, 538 U.S. at 529-30 (upholding only “brief” detention under Section 1226(c),
11 which last “roughly a month and a half in the vast majority of cases in which it is
12 invoked, and about five months in the minority of cases in which the alien chooses to
13 appeal”); *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the
14 constitutionality of detention for more than six months”).

15 **54.** The recognition that six months is a substantial period of confinement—and is the time
16 after which additional process is required to support continued incarceration—is deeply
17 rooted in our legal tradition.

18 **55.** With few exceptions, “in the late 18th century in America crimes triable without a jury
19 were for the most part punishable by no more than a six-month prison term . . .” *Duncan*
20 *v. State of La.*, 391 U.S. 145, 161 & n.34 (1968).

21 **56.** Consistent with this tradition, the Supreme Court has found six months to be the limit
22 of confinement for a criminal offense that a Federal Court may impose without the
23 protection afforded by jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966)
24 (plurality opinion).

1 **57.** The Court has also looked to six-months as a benchmark in other contexts involving
2 civil detention. *See McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249, 250-52 (1972)
3 (recognizing six months as an outer limit for confinement without individualized
4 inquiry for civil commitment). The Court has likewise recognized the need for bright
5 line constitutional rules in other areas of law. *See Maryland v. Shatzer*, 559, U.S. 98,
6 110 (2010) (14 days for re-interrogation following invocation of Miranda rights); *Cty.*
7 *Of Riverside v. McLaughlin*, 500 U.S. 44, 55-56 (1991) (48-hours for probable cause
8 hearing).

9 **58.** Even if a bond hearing is not required after six-months in every case, at a minimum,
10 due process requires a bond hearing after detention has become unreasonably
11 prolonged. *See Diop*, 656 F.3d at 234. Courts that apply a reasonableness test have
12 considered three main factors in determining whether detention is reasonableness. First,
13 courts have evaluated whether the noncitizen has raised a “good faith” challenge to
14 removal—that is, the challenge is “legitimately raised” and presents “real issues”.
15 *Chavez-Alvarez v. Wardern York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015).
16 Petitioner’s detention is prolonged detention without an impartial and fair bond hearing
17 that guarantees fundamental Due Process of Law. Any delay has occurred as a result
18 of litigating favorable and substantive issues affecting removal.

19 **59.** Second, reasonableness is a “function of the length of the detention,” with detention
20 presumptively unreasonable if it lasts six-months to a year. *Id.* at 477-78; *accord Sopo*,
21 825 F.3d at 1217-18. Third, courts have considered the likelihood that detention will
22 continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding
23 detention unreasonable after nine months of detention, when the parties could “have
24 reasonably predicted that *Chavez-Alvarez’s* appeal would take a substantial amount of

1 time, making his already lengthy detention considerably longer”); *Sopo*, 825 F.3d at
2 128; *Reid*, 819 F.3d at 500.

3 **60.** At a proper bond hearing, due process requires certain minimal protections to ensure
4 that a noncitizen’s detention is warranted: the *government* must bear the burden of
5 proof by *clear and convincing* evidence to justify continued detention, taking into
6 consideration available alternatives to detention; and if the government cannot meet its
7 burden, the noncitizen’s ability to pay a bond must be considered in determining the
8 appropriate conditions of release.

9 **61.** To justify immigration detention, the government must bear the burden of proof by
10 *clear and convincing* evidence that the noncitizen is a danger or flight risk. *See Singh*
11 *v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011). Where the Supreme Court has
12 permitted civil detention in other contexts, it has relied on the fact that the Government
13 bore the burden of proof at least by *clear and convincing evidence*. *See United States*
14 *v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where “full-
15 blown adversary hearing,” requiring “clear and convincing evidence” and “neutral
16 decisionmaker”) *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil
17 detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692
18 (finding post-final-order custody review procedures deficient because, inter alia, they
19 placed burden on detainee).

20 **62.** The Ninth Circuit Court of Appeals confirmed that *Jennings v. Rodriguez*, 138 S. Ct.
21 830 (2018) did not invalidate the holding in *Singh* and *Rodriguez v. Robbins* (Rodriguez
22 III), 804 F.3d 1060 (9th Cir. 2015), which required that the Government justify a non-
23 citizen’s detention by *clear and convincing* evidence. *Aleman Gonzalez v. Barr*, ---
24 F.3d ---, 2020 WL 1684034 (9th Cir. Apr. 7, 2020).

1 **63.** Since *Jennings*, numerous district courts in this circuit and others have concluded that
2 due process requires the government to prove by *clear and convincing* evidence that a
3 non-citizen is a flight risk or a danger to the community to justify denial of bond. E.g.,
4 *Ixchop Perez v. McAleenan*, --- F. Supp. 3d ---, 2020 WL 1181492, at *4 (N.D. Cal. Jan.
5 23, 2020) (rejecting the government’s “attempt to cabin *Singh* to only apply to *Casas*
6 hearings” as “illogical” since such interpretation would “create a system in which a
7 detained noncitizen bears the burden at their initial bond hearing, but the burden then
8 shifts at a *Casas* hearing”); *Singh v. Barr* (“*Singh v. Barr*”), 400 F. Supp. 3d 1005,
9 1017-18 (S.D. Cal. 2019) (“Because *Jennings* expressly addressed itself to the
10 mandates of the INA, and not the Constitution, the procedural due process holding[]
11 in *Singh* . . . still stand[s].”); *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 775 (N.D.
12 Cal. 2019); *Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1033 n.8 (W.D. Was.
13 2019); *Cortez v. Sessions*, 318 F. Supp. 3d 1134 (N.D. Cal. 2018), *appeal dismissed*,
14 2018 WL 4173027 (9th Cir. July 25, 2018); *Ramos v. Sessions*, 293 F. Supp. 3d 1021,
15 1029-30 (N.D. Cal. 2018).; *Diaz-Ceja v. McAleenan*, No. 19-CV-00824-NYW, 2019
16 WL 2774211, at *11 (D. Colo. July 2, 2019); *Darko v. Sessions*, 342 F. Supp. 3d 429
17 (S.D. N.Y. 2018); *Linares Martinez v. Decker*, 2018 WL 5023946, at *4 (S.D. N.Y.
18 Oct. 17, 2018); *Sajous v. Decker*, No. 28 Civ. 2447 (AJN), 208 WL 2357266, at *12
19 (S.D. N.Y. May 23, 2018); *Hernandez v. Decker*, No. 18 Civ. 5026 (ALC), 2018 WL
20 3579108, at *10 (S.D. N.Y. July 25, 2018); *Frederic v. Edwards*, No. 18 Civ. 5540
21 (AT), Docket No. 13 (S.D. N.Y. July 19, 2018); *Figueroa v. McDonald*, No. 18-CV-
22 10097 (PBS), --- F. Supp. 3d ---, --- 2018 WL 2209217, at *5 (D. Mass. May 17, 2018);
23 *Pensamiento*, 315 F. Supp. 3d 684, 692 (D. Mass. 2018); *Portillo v. Hott*, 322 F. Supp.
24 3d 698, 709 n.9 (E.D. Va. 2018).

1 **64.** Further, three (“3”) honorable district court judges in this Court have concluded that
2 fundamental due process requires the government at any Bond proceedings to prove by
3 the legal standard of *clear and convincing* evidence that a noncitizen is a *flight risk or*
4 *danger to the community* to justify the denial of bond. *Vargas v. Wolf*, 2020 WL
5 1929842 (D. Nev. 2020)); *Fuentes Reyes v. Wolf*, 2020 WL 2308075 (D. Nev. 2020);
6 *De la Cruz v. United States*, 2021 WL 66402 (D. Nev. Jan. 7, 2021).

7 **65.** In *Fuentes Reyes v. Wolf*, U.S. District Court Judge Gloria M. Navarro reaffirmed
8 *Vargas v. Wolf* in its entirety by imposing the same constitutional standard for Bond
9 Hearings where the government must meet the Burden of Proof of dangerousness and
10 flight risk by *clear and convincing evidence* standard.

11 **66.** In *De la Cruz v. Wolf*, U.S. District Judge Andrew P. Gordon determined that the
12 government was unable to show cause why he should deviate from following *Vargas*
13 and reaffirmed *Vargas* by holding that the government has the burden of proof by *clear*
14 *and convincing evidence* that a detainee is a flight risk of a danger to the community
15 and thus, if the government is unable to meet this heightened burden of proof, a detainee
16 must be released.

17 **67.** The Fifth Amendment requires that, before depriving a person of his liberty, the
18 government allow that person to be heard at a meaningful time and in a meaningful
19 manner. *See Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The determination of
20 whether particular government conduct violates this procedural due process balances
21 (1) the private interest affected by the official action; (2) the risk of erroneous
22 deprivation of the interest and value (if any) of additional or substitute procedural
23 safeguards; and (3) the government’s interest, including the burden that additional or
24 substitute procedural requirements would impose. *Id.* at 335.

1 **68.** To conform to the requirements of due process, such a hearing must take place before
2 an independent and impartial adjudicator. *Id.* at 334-35. The requirement that the
3 government bear the burden of proof by *clear and convincing* evidence is also
4 supported by application of the three-factor balancing test from *Mathews v. Eldridge*,
5 424 U.S. 319, 335 (1976). First, prolonged incarceration deprives noncitizens of a
6 “profound” liberty interest. *See Diouf II*, 634 F.3d at 1091–92 (9th Cir. 2011). Second,
7 the risk of error is heavily great where the government is represented by trained and
8 qualified attorneys and detained noncitizens, as it is in this present case, are often
9 unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455
10 U.S. 745, 763 (1982) (requiring clear and convincing evidence at parental termination
11 proceedings because “numerous factors combine to magnify the risk of erroneous
12 factfinding” including that “parents subject to termination proceedings are often poor,
13 uneducated, or members of minority groups” and “[t]he State’s attorney usually will be
14 expert on the issues contested”). Moreover, detainees are incarcerated in prison-like
15 conditions that severely hamper their ability to obtain legal assistance, gather evidence,
16 and prepare for a bond hearing. *See infra*.

17 **69.** Third, placing the burden on the government imposes minimal cost or inconvenience,
18 as the government has access to the noncitizen’s immigration records and other
19 information that it can use to make its case for continued detention.

20 **70.** Due process also requires consideration of non-punitive alternatives to detention. The
21 primary purpose of immigration detention is to ensure a noncitizen’s appearance during
22 removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related
23 to this purpose if there are alternative conditions of release that could mitigate risk of
24 flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE’s alternatives to detention

1 program—the Intensive Supervision Appearance Program (“ISAP”)—has achieved
2 extraordinary success in ensuring appearance at removal proceedings, reaching
3 compliance rates close to 100 percent. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th
4 Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings
5 and a 95% attendance rate at final hearings”). It follows that “alternatives to detention”
6 must be considered in determining whether prolonged incarceration is warranted.

7 **71.** While detention pending removal proceedings is constitutionally permissible, it must
8 comport with due process. Among other requirements, the government must justify
9 prolonged detention with clear and convincing evidence that the noncitizen presents a
10 current flight risk or danger to the community. *Dangerousness cannot be based on*
11 *criminal history alone*; the severity and recency of the criminal conduct must be taken
12 into account. The IJ also must consider *changes in circumstances* that would make
13 *recidivism less likely*. Finally, although the Court cannot review the IJ’s discretionary
14 judgement, it may review the record for constitutional claims and legal error and to
15 ensure that the clear and convincing evidence standard is met as a matter of law.
16 *Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 2033 n.8 (W.D. Wash. 2019).

17 **72.** The following facts establish the government will not meet its Burden of Proof i.e.,
18 “*clear and convincing*” evidence of dangerousness as a matter of law:

19 **73.** Petitioner does not pose a danger to persons or property. The record reflects that he
20 lacks felony convictions and is not under any criminal proceedings. He is not under any
21 form of probation by the Department of Parole and Probation.

22 **74.** Petitioner’s compelling circumstances serve as sufficient demonstration that he is not
23 a flight risk as he fled from Mexico and has a “well-founded” fear of persecution and
24 torture. Petitioner has a strong family support system in the United States to ensure he

1 reintegrates into his community successfully. Petitioner has had no criminal arrests, no
2 felony convictions, and no pending criminal charges against him.

3 **75.** Because Petitioner has no criminal history, the record reflects that his continued
4 detention is not necessary to serve any legitimate government purpose and that he poses
5 no danger to the community and no risk of flight. *See Zadvydas v. Davis*, 533 U.S. 678,
6 690 (2001) (immigration detention must bear a reasonable relation to its purpose);
7 *Rodriguez v. Robbins*, 715 F.3d 1127, 1137 (9th Cir. 2013) (continued detention
8 unjustified where the government cannot show danger or flight risk).

9 **76.** At the same time, Petitioner's ongoing detention has inflicted severe and irreparable
10 harm on him. The Ninth Circuit has recognized that such severe hardship is a critical
11 factor demonstrating that continued detention is excessive and unconstitutional when
12 less restrictive alternatives are available. *See Nadarajah v. Gonzales*, 443 F.3d 1069,
13 1080–81 (9th Cir. 2006) (continued detention unlawful where it causes significant
14 hardship and is not narrowly tailored).

15 **77.** It is important to point out that Petitioner's continued detention serves no legitimate
16 immigration purpose and instead results in punitive, excessive, and unconstitutional
17 confinement, causing ongoing harm that cannot be remedied after the fact.

18 **78.** Under the Due Process Clause, where detention is unnecessary to ensure appearance or
19 protect the public, release is the appropriate and constitutionally required remedy. *See*
20 *Zadvydas*, 533 U.S. at 699; *Nadarajah*, 443 F.3d at 1083.

21 **79.** Pursuant to *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*, Case No.
22 5:25-cv-01873-SSS-BFM (Nov. 25, 2025), Petitioner is not subject to mandatory
23 detention.

1 **80.** DHS has not alleged any grounds that trigger the mandatory detention provisions,
 2 including INA § 212(a)(2) or aggravated felonies under INA § 237(a)(2)(A)(iii).

3 **81.** In turn, Due Process likewise requires consideration of a noncitizen's ability to pay a
 4 bond. "Detention of an indigent 'for inability to post money bail' is impermissible if
 5 the individual's 'appearance at trial could reasonably be assured by one of the alternate
 6 forms of release.'" *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th
 7 Cir. 1978) (en banc). It follows that—in determining the appropriate conditions of
 8 release for immigration detainees—due process requires "consideration of financial
 9 circumstances and alternative conditions of release" to prevent against detention based
 10 on poverty. *Id.* At the present time, Petitioner has limited finances to post a bond
 11 because of his continued detention.

12 **IN THE ALTERNATIVE, AN EMERGENCY INJUNCTION RELIEF IS**
 13 **WARRANTED TO PREVENT IRREPARABLE HARM**

14 **82.** Petitioner respectfully requests that this Court issue an emergency injunction ordering
 15 his immediate release from ICE custody or, in the alternative, a constitutionally
 16 adequate bond hearing. Injunctive relief is appropriate where the petitioner
 17 demonstrates: (1) a likelihood of success on the merits, (2) irreparable harm absent
 18 relief, (3) that the balance of equities tips in his favor, and (4) that the public interest
 19 supports relief. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008); *Alliance for the*
 20 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (a serious question going
 21 to the merits plus a balance of hardships that tips sharply toward the petitioner also
 22 supports injunctive relief).

23 **A. Likelihood of Success on the Merits**

24 **83.** Petitioner has demonstrated a high likelihood of success. His detention without a

1 constitutionally adequate bond hearing violates the Fifth Amendment's Due Process
2 Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a
3 reasonable relation to its purpose and cannot be indefinite); *Singh v. Holder*, 638 F.3d
4 1196, 1203–04 (9th Cir. 2011) (government bears the burden of proving danger or flight
5 risk by clear and convincing evidence in prolonged detention cases); *Hernandez v.*
6 *Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (requiring individualized bond
7 determinations and consideration of ability to pay). Because DHS has failed to justify
8 Petitioner's continued detention under the appropriate legal standard, success on the
9 merits is likely.

10 **B. Irreparable Harm**

11 **84.** Petitioner suffers ongoing irreparable harm every day that his liberty is restrained in
12 violation of due process. Prolonged detention imposes significant psychological and
13 physical hardship and impedes Petitioner's ability to meaningfully participate in his
14 defense. The Ninth Circuit has recognized that "prolonged detention without adequate
15 procedural protections would raise serious constitutional concerns." *Rodriguez v.*
16 *Robbins*, 804 F.3d 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct.
17 830 (2018). The deprivation of liberty is the quintessential form of irreparable harm.

18 **C. Balance of Equities**

19 **85.** The balance of equities strongly favors Petitioner's release. The government's interest
20 in ensuring attendance at removal proceedings can be met through less restrictive
21 means, such as bond or supervision, particularly where Petitioner has taken steps of
22 rehabilitation and has no record of absconding. *See Valdez-Jimenez v. Eighth Judicial*
23 *Dist. Ct.*, 460 P.3d 976, 992 (Nev. 2020) (holding that due process requires
24 individualized findings before continued pretrial detention).

1 **86.** Continued detention imposes significant hardship on Petitioner, while release under
 2 reasonable conditions poses no harm to the government.

3 **D. Public Interest**

4 **87.** The public interest is always served by upholding constitutional rights and preventing
 5 unlawful detention. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
 6 (recognizing that enforcement of constitutional rights is in the public interest).

7 **88.** Prompt judicial intervention will preserve the integrity of removal proceedings and
 8 reinforce the rule of law. Public interests favor Petitioner's release as DHS has yet to
 9 deport him to Mexico.

10 **i. ICE's Custody Review Process Is Constitutionally Inadequate,**
 11 **Leaving Habeas Corpus as the Only Available Remedy**

12 **89.** Petitioner was denied bond without a full and fair hearing and was not afforded a
 13 custody redetermination hearing where it comports with due process of law. Petitioner's
 14 case is under appellant review before the Board.

15 **90.** Even so, ICE's post-order custody reviews at 90 and 180 days are not meaningful
 16 substitutes for judicial review. These reviews are conducted entirely within the agency,
 17 lack transparent standards, provide no guaranteed opportunity to present evidence or
 18 rebut government assertions, and result in decisions that are unappealable. Such a
 19 process fails to meet the minimum requirements of due process. *See Rodriguez v.*
 20 *Robbins*, 804 F.3d 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct.
 21 830 (2018) (requiring individualized bond hearings with meaningful procedural
 22 protections for prolonged detention).
 23

24 **91.** Even so, there is no assurance that ICE would provide a fair hearing or a reasoned
 25 decision, leaving Petitioner at risk of **indefinite and unreviewable detention**—a result

the Supreme Court condemned in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The lack of an effective administrative remedy underscores the need for this Court's intervention through habeas corpus. As the Supreme Court reaffirmed in *Boumediene v. Bush*, 553 U.S. 723, 745 (2008), the Great Writ is a critical safeguard against unlawful executive detention and ensures that no person is deprived of liberty without judicial review.

92. Because Petitioner was not afforded a bond hearing where it comports with due process and no other remedy exists to challenge DHS/ICE's arbitrary detention decisions, habeas corpus relief is proper and necessary to protect Petitioner's constitutional rights.
93. This Court should therefore grant the writ and order Petitioner's immediate release or, at minimum, require a constitutionally adequate bond hearing where DHS bears the burden of proof by the *clear and convincing evidence* standard.

ii. **DHS/ICE's Arbitrary Detention Decisions Are Unlawful and Deprive Petitioner of Due Process**

94. Because Petitioner was arrested by ICE agents, Respondents have acted in an **arbitrary and capricious manner** by cherry-picking arrests and selectively detaining noncitizens like Petitioner without a reasoned basis or individualized assessment.
95. Administrative detention must be rationally related to its purpose—to secure attendance at proceedings or protect the public—and cannot be punitive or arbitrary. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a reasonable relation to its purpose); *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must be based on a reasoned explanation and not arbitrary decision-making).
96. DHS detained Petitioner without any meaningful explanation and with no opportunity to present evidence or rebut allegations. This lack of procedural safeguards renders the

1 review process constitutionally deficient. The Ninth Circuit has consistently held that
2 the government must provide **individualized determinations** and consider less
3 restrictive alternatives to detention. *Rodriguez v. Robbins*, 804 F.3d 1060, 1082–83 (9th
4 Cir. 2015) (requiring bond hearings and consideration of alternatives to detention),
5 *vacated on other grounds*, 138 S. Ct. 830 (2018).

6 **97.** This leaves Petitioner in a state of **indefinite and unreviewable detention**, a situation
7 the Supreme Court condemned in *Zadvydas*, 533 U.S. at 690 (holding that indefinite
8 detention raises serious constitutional concerns).

9 **98.** Petitioner was arrested without an arrest warrant and without due process, leaving him
10 with no other adequate remedy exists to challenge this unlawful arrest and unlawful
11 detention—and because detention without judicial oversight would result in irreparable
12 harm and injury—this Court’s intervention through habeas corpus relief is not only
13 proper but necessary.

14 **99.** The writ of habeas corpus serves as a critical check on executive overreach and
15 unlawful deprivation of liberty. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008)
16 (habeas corpus is a fundamental safeguard against arbitrary detention).

17 **100.** DHS’ capricious decision to continue Petitioner’s detention without meaningful
18 individualized review is arbitrary, capricious, and violates the Fifth Amendment’s Due
19 Process Clause. Administrative agencies must exercise discretion based on a reasoned
20 explanation and may not engage in arbitrary decision-making. *Judulang v. Holder*, 565
21 U.S. 42, 53 (2011). Civil immigration detention must bear a reasonable relation to its
22 purpose—to ensure appearance at proceedings and protect the public—and cannot
23 become punitive or indefinite. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

24 **101.** The Ninth Circuit has likewise emphasized that due process requires a neutral

1 decision-maker and individualized determinations supported by clear and convincing
2 evidence. *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Hernandez v.*
3 *Sessions*, 872 F.3d 976, 991 (9th Cir. 2017). Respondents’ failure to provide a fair
4 custody review or viable appeal rights leaves Petitioner under indefinite detention
5 without meaningful process, warranting this Court’s intervention and immediate
6 release through the Great Writ of habeas corpus.

7 **iii. ICE’s Cherry-Picking Arrests and Detention is Arbitrary,**
8 **Capricious, and Violate Petitioner’s Due Process Rights**
9

10 **102.** DHS’ decision to arrest and detain Petitioner without an opportunity to challenge
11 his detention, and despite lack of felony convictions, constitutes as arbitrary and
12 capricious enforcement action that violates both the Fifth Amendment’s guarantee of
13 due process and the Administrative Procedure Act’s requirement of reasoned decision-
14 making. *See Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must not be
15 arbitrary or capricious but must rest on a reasoned explanation). Petitioner is prepared
16 to comply with every directive imposed by the courts and ICE, including check-ins,
17 reporting obligations, and cooperation with removal procedures.

18 **103.** Targeting him for arrest and detention under these circumstances amounts to
19 impermissible “**cherry-picking**” enforcement—a practice where the agency singles
20 out compliant individuals while taking no action against others, without articulating
21 any rational basis for the disparate treatment.

22 **104.** Such selective enforcement is constitutionally suspect and undermines the
23 integrity of the immigration system. The Supreme Court has emphasized that agency
24 actions must be guided by intelligible principles and consistent application of law.
25 *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016) (agency decisions must

1 reflect reasoned analysis and avoid arbitrary departures from settled policy).

2 **105.** Respondents' decision here reflects no individualized assessment of danger or
3 flight risk, as required by due process. *See Singh v. Holder*, 638 F.3d 1196, 1203–04
4 (9th Cir. 2011) (government bears burden of proving danger or flight risk by clear and
5 convincing evidence). Moreover, by detaining Petitioner despite knowing he cannot be
6 deported to Mexico, reveals that the Respondents conduct is not only futile but punitive,
7 rendering the detention unlawful under *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)
8 (detention must be reasonably related to its purpose and cannot be indefinite where
9 removal is not reasonably foreseeable).

10 **106.** Because ICE's arrest and detention decisions lack a rational connection to a
11 legitimate governmental objective and instead reflect arbitrary "cherry-picking"
12 enforcement, this Court should grant the writ of habeas corpus and order Petitioner's
13 immediate release. Judicial intervention is necessary to prevent further constitutional
14 injury and to ensure that agency discretion is exercised within lawful bounds.

15 **107.** Accordingly, this Court should grant the writ and order Petitioner's immediate
16 release or, at minimum, require a constitutionally adequate bond hearing where DHS
17 bears the burden of proof by clear and convincing evidence.

18 **108.** Even if bond was issued, due process likewise requires consideration of a
19 noncitizen's ability to pay a bond. "Detention of an indigent 'for inability to post money
20 bail' is impermissible if the individual's 'appearance at trial could reasonably be
21 assured by one of the alternate forms of release.'" *Id.* at 990 (quoting *Pugh v.*
22 *Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)).

23 **109.** It follows that—in determining the appropriate conditions of release for
24 immigration detainees—due process requires "consideration of financial circumstances

1 and alternative conditions of release” to prevent against detention based on poverty. *Id.*

2 At the present time Petitioner has limited finances to post a bond because of his
3 continued detention.

4 **110.** This Court should order Petitioner’s immediate release because DHS/ICE’s
5 arbitrary and capricious detention decisions violate the Fifth Amendment’s guarantee
6 of due process.

7 **111.** Detention by the Respondents puts at risk Petitioner’s protected life and liberty
8 interest. The Due Process Clause of the Fifth Amendment forbids the government from
9 depriving any “person” of life and liberty “without due process of law”. *See U.S.*
10 *Const., amend. V.*

11 **112.** To justify Petitioner’s ongoing detention, Due Process requires that the
12 government establish, at an individual hearing before a neutral decisionmaker, that
13 Petitioner’s detention is justified by *clear and convincing* evidence of flight risk or
14 danger, even after consideration whether alternatives to detention could sufficiently
15 mitigate that risk.

16 **113.** This Court should grant this Writ of Habeas Corpus and Petitioner should be
17 ordered released from ICE custody as Petitioner’s ongoing detention violates Due
18 Process of Law, the United States Constitution and Common Law.

19 **COUNT ONE**

20 **PETITIONER’S DETENTION IS IN VIOLATION OF DUE PROCESS**

21 **CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

22 **114.** This Court should order Petitioner’s immediate release because Respondents
23 arbitrary and capricious detention decisions violate the Fifth Amendment’s guarantee
24 of due process.

1 **115.** All persons, including non-citizens, residing in the US are protected by the Due
 2 Process Clause of the Fifth Amendment to the US Constitution. *See Zadvydas v. Davis*,
 3 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982). The Due Process
 4 Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life,
 5 liberty, or property, without due process of law”. *U.S. Const., amend. V*. “Freedom from
 6 imprisonment—from government custody, detention, or other forms of physical
 7 restraint—lies at the heart of liberty that Clause protects”. *Zadvydas*, 533 U.S. at 690.

8 **116.** Detention by the Respondents puts at risk Petitioner's protected life and liberty
 9 interest. The Due Process Clause of the Fifth Amendment forbids the government from
 10 depriving any “person” of life and liberty “without due process of law”. *See U.S.*
 11 *Const., amend. V*.

12 **COUNT TWO**

13 **STATUTORY VIOLATIONS**

14 **117.** Petitioner re-alleges and incorporates by reference paragraphs 1 through 116.

15 **118.** Petitioner's continued detention by Respondents is unlawful and contravenes 8
 16 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. Petitioner still
 17 has not been removed, and Petitioner continues to languish in detention. Petitioner's
 18 removal to his country of origin, which would be Mexico, or any country is not
 19 significantly likely to occur in the foreseeable future. The Supreme Court held in
 20 *Zadvydas* and *Martinez* that ICE's continued detention of someone like Petitioner under
 21 such circumstances is unlawful.

22 **COUNT THREE**

23 **SUBSTANTIVE DUE PROCESS VIOLATION**

24 **119.** Petitioner re-alleges and incorporates by reference paragraphs 1 through 118.

120. Petitioner was detained by ICE and his continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

121. This Court has long held that the Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. Even while Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify Petitioner's detention nor indefinite detention of Petitioner, who is not significantly likely to be deported in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. Petitioner's case is under judicial review before the Ninth Circuit Court. Thus, DHS cannot provide a date for Petitioner's removal.

COUNT FOUR

PROCEDURAL DUE PROCESS VIOLATIONS

122. Petitioner re-alleges and incorporates by reference paragraphs 1 through 121.

123. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity. Petitioner respectfully notes that ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will

1 ever be made, or appeal a custody decision that violates *Zadvydas*.

2 **124.** In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that six
3 months is the presumptively reasonable period during which ICE may detain aliens in
4 order to effectuate their removal. *Id.* at 702. In *Clark v. Martinez*, 543 U.S. 371 (2005),
5 the Supreme Court held that its ruling in *Zadvydas* applies equally to inadmissible
6 aliens. Yet, it is important to stress out that there is no clear indication that ICE will
7 remove Petitioner in the reasonable foreseeable future nor can it provide such an
8 indication. Thus, Petitioner warrants release.

9 **125.** Here, Petitioner was arrested and detained by ICE without an arrest warrant,
10 which establishes that DHS is cherry-picking arrests and detention.

11 **126.** Further, there is no indication from any Embassy or Consulate that travel
12 documents would be issued for Petitioner. *Lawrikow v. Kollus*, No. CV-08-1403-PHX-
13 GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009).

14 **127.** Even if Petitioner's detention is authorized under Section 1231, 1225 or 1226,
15 Petitioner's continued detention must comport with due process. Petitioner argues his
16 arrest and his detention by ICE violates his due process rights; he requests release.

17 **128.** This Court should hold that Petitioner's detention has become unlawful and the
18 Constitution therefore does, at this time, require that Petitioner be released.

19 **CLAIMS FOR RELIEF**

20 **FIRST CLAIM FOR RELIEF IN VIOLATION OF DUE PROCESS CLAUSE OF THE** 21 **FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

22 **129.** Again, all persons, including aliens, residing in the United States are protected by
23 the Due Process Clause of the Fifth Amendment to the United States Constitution. *See*
24 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982).

1 **130.** The Due Process Clause of the Fifth Amendment provides that “[n]o person shall
 2 be ... deprived of life, liberty, or property, without due process of law.” *U.S. Const.*,
 3 *amend. V*. “Freedom from imprisonment—from government custody, detention, or
 4 other forms of physical restraint—lies at the heart of the liberty that Clause protects.”
 5 *Zadvydas*, 533 U.S. at 690. Detention by the Respondents puts at risk Petitioner’s
 6 protected liberty interest. The Due Process Clause of the Fifth Amendment forbids the
 7 government from depriving any “person” of liberty “without due process of law.” *See*
 8 *U.S. Const. amend. V*. Petitioner re-alleges and incorporates by reference the paragraphs
 9 above.

10 **131.** Based on the laws and facts, Petitioner’s detention and ongoing detention without
 11 such a fair and impartial hearing violates due process.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Petitioner respectfully requests and prays for this Court:

14 **132.** Assume jurisdiction over this matter;

15 **133.** Issue a declaration that Petitioner’s ongoing detention violates the Due Process
 16 Clause of the Fifth Amendment and the Eighth Amendment;

17 **134.** Grant Petitioner a Writ of Habeas Corpus directing the Respondents to
 18 immediately release Petitioner from custody;

19 **135.** Enter preliminary and permanent injunctive relief enjoining Respondents from
 20 further unlawful detention of Petitioner;

21 **136.** Issue a Writ of Habeas Corpus and order Petitioner’s release within twenty (“20”)
 22 days, unless the Respondents schedule a hearing before an immigration judge where it
 23 holds proper jurisdiction and where: (1) to continue detention, the government must
 24 establish by clear and convincing evidence that Petitioner presents a risk of flight or

1 danger, even after consideration of alternatives to detention that could mitigate any risk
2 that Petitioner's release would present; and (2) if the government cannot meet its
3 burden, the immigration judge order Petitioner's release on appropriate conditions of
4 supervision, taking into consideration Petitioner's ability to pay a bond.

5 **137.** Issue a declaration that Petitioner's ongoing detention violates the Due Process
6 Clause of the Fifth Amendment and the Eighth Amendment;

7 **138.** Award Petitioner his costs in this action as provided for by the Equal Access to
8 Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any
9 other basis justified under law, 28 U.S.C. § 2412, other statute; and

10 **139.** Grant such further relief as this Court deems just and proper.

11
12 **Respectfully submitted on this 9th day of February, 2026.**

13
14
15 Joel Jeronimo

16 Joel Jeronimo Martin

17 Alien No. 087 – 958 – 307

18 Nevada Southern Detention Center

19 2190 East Mesquite Avenue

20 Pahrump, Nevada 89060
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7 **ACKNOWLEDGEMENT AND VERIFICATION**

8 Under penalty of perjury, the undersigned declares that he is the named Petitioner in the
9 foregoing petition. I have read the foregoing petition and its contents. The statements in the
10 petition are true and correct to the best of my knowledge, except as to any statements alleged
11 on information and belief, and as to those statements, I believe them to be true.

12
13 **DATED this 9th day of February, 2026.**

14
15
16 Joel Jeronimo

17 Joel Jeronimo Martin

18 Alien No 

19 Nevada Southern Detention Center

20 2190 East Mesquite Avenue

21 Pahrump, Nevada 89060

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