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12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Joel Jeronimo Martin,
15
16 Petitioner,
17
18 v.

19 John Mattos, NSDC Warden; Michael
20 Bernacke, Field Director, Salt Lake City
21 Field Office of ICE ERO; Todd Lyons, ICE
22 Acting Director; Kristi Noem DHS
23 Secretary; Pam Bondi, U.S. Attorney
24 General, *et al.*,
25
26 Respondents.
27

Case No. 2:26-cv-00388-CDS-NJK
Reply to Response (ECF No. 11)

POINTS AND AUTHORITIES

In their Response to Petitioner Joel Jeronimo Martin's amended petition (ECF No. 7), Respondents make three arguments. First, Respondents argue this Court lacks jurisdiction to hear the petition under 8 U.S.C. § 1252(g). Second, Respondents argue that the immigration judge (IJ) accurately determined Petitioner was a danger to the community and a flight risk. Third, Respondents argue Petitioner shouldn't be released or provided a bond hearing because the "post-order" detention provisions of 8 U.S.C. § 1231 govern. Each of Respondents' arguments lacks merit.

I. The Court has jurisdiction and Respondents' argument otherwise "beggars belief and appears to deliberately mislead the Court about the law and the record."

This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus to individuals in custody if that custody violates "the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *see also Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (holding § 2241 is the proper vehicle through which to challenge the constitutionality of a noncitizen's detention without bail); *Jennings v. Rodriguez*, 583 U.S. 281, 294–96 (2018) (holding that neither 8 U.S.C. § 1226(e) nor § 1252(b)(9) bar review of constitutional challenges to prolonged immigration detention).

Despite this clear binding authority, Respondents devote half of their response to arguing that this Court does not have jurisdiction over the instant petition pursuant to 8 U.S.C. § 1252(g).¹ Ignoring 8 U.S.C. § 2241, Supreme Court precedent, and the decisions of district courts both in this district and throughout the United States, Respondents argue § 1252(g) "bars habeas review in federal district court of claims arising from a decision or action to 'execute' a final order of

¹ ECF No. 11 at 6-10.

removal.” (citing *Reno v. American-Arab Anti-Discrimination Committee (AADC)*, 525 U.S. 471, 482 (1999)).² Respondents also incorrectly cite to the Third Circuit’s decision in *Tazu v. Att’y Gen United States*, 975 F.3d 292, 297 (3d Cir. 2020).³

Respondents willfully misinform this Court with respect to its jurisdiction, arguing that “every circuit court of appeals to address the issue has held that § 1252(g) eliminates subject-matter jurisdiction over habeas challenges . . . to an arrest or detention for the purpose of executing a final removal order.”⁴ As the Court in *Rivero v. Mina*, ___ F.Supp.3d ___, 6:26-cv-66-RBD-NWH, 2026 WL 199319, at *2 (M.D. FL Jan. 26, 2026) recently found, “[t]his argument beggars belief and appears to deliberately mislead the Court about the law and the record.” *Accord Portillo Portillo v. Bondi*, No. 2:26-CV-00155-CDS-NJK, 2026 WL 800710, at *2 (D. Nev. Mar. 23, 2026) (“the respondents’ arguments that the INA and REAL ID deprive this court of jurisdiction are irrelevant to resolution of this petition” because “petitioner is challenging the fact that he has been in ICE custody since November 2024”).

Section 1252 applies to the judicial review of orders of removal. Respondents failed to provide the full statutory clause, which states “[e]xcept as provided in this section *and notwithstanding any other provision of law* (statutory or nonstatutory), *including section 2241*. . . no court shall have jurisdiction to hear any cause or claim by or on behalf of an alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.” § 1252(g) (emphasis added).

² ECF No. 11 at 7.

³ ECF No. 11 at 7.

⁴ ECF No. 11 at 7.

1 Additionally, a full reading of *Tazu* is important. Circuit Judge Bibas opens
2 the opinion by stating, “[i]n law, as in life, the path often matters as much as the
3 destination. For an alien *challenging his removal*, that path begins with a petition
4 for review of his removal order, not a habeas petition.” *Tazu*, 975 F.3d at 294.
5 Indeed, as the Court notes in the second paragraph, Tazu filed a habeas petition to
6 stop the execution of his removal order while he attempted to reopen his removal
7 proceedings. *Id.* Neither the statute nor the case cited by Respondents apply
8 because Petitioner here is not challenging his order of removal.

9 Respondents also incorrectly contend that Petitioner cannot challenge his
10 detention pursuant to § 1252(b)(9).⁵ However, once again, § 1252(b)(9) addresses
11 challenges to final orders of removal. Citing again to *Tazu*, Respondents incorrectly
12 inform this Court that the Third Circuit held that “the same claims concerning a
13 revocation of supervised release and re-detention which were barred under 1252(g)
14 were also barred under 1252(b)(9) because the claims arose from actions taken to
15 execute the petitioner’s removal.” ECF No. 11, at 9 (citing *Tazu*, 975 F.3d at 299).
16 Again, Respondents misstate the Third Circuit’s decision.

17 To be sure, *Tazu* states § 1252(b)(9) “eliminates the District Court’s
18 jurisdiction over Tazu’s re-detention claim, as it ‘arises from’ an action taken to
19 execute his removal.” *Tazu*, 975 F.3d 299. However, Tazu’s case was in a different
20 procedural posture, and Respondents omit the part of the decision that applies here.
21 Indeed, the Third Circuit was clear that § 1252(b)(9) “does not foreclose all claims
22 by an immigration detainee.” *Id.* For example, “[i]f Tazu had *challenged the length*
23 *of his confinement*, . . . he could have pursued that challenge outside a petition for
24 review.” *Id.* (citing *E.O.H.C. v. Sec’y United States Dep’t of Homeland Sec.*, 950 F.3d
25 177, 186 (3d Cir. 2020)). Importantly, “[c]hallenges to the length or conditions of an
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27 ⁵ ECF No. 11 at 8-10.

1 alien's confinement are not directly about removal. 'For those claims, review is now
2 or never.'" *Id* (citing *E.O.H.C.*, 950 F.3d at 180).

3 Therefore, Respondents' jurisdiction argument is wholly without merit, and
4 Petitioner's challenge to the length of his confinement is proper under 28 U.S.C. §
5 2241. "The Government's argument to the contrary is, in a word, *inexplicable*."
6 *Rivero*, 2026 WL 199319, at *3 (emphasis in original).

7 **II. Petitioner must be released because the denial of his bond was based**
8 **on factually incorrect information.**

9 Due process requires, at a minimum, that a deprivation of liberty be
10 grounded in accurate facts and supported by evidence. *See Hernandez v. Sessions*,
11 872 F.3d 976, 981 (9th Cir. 2017). On August 12, 2025, the IJ denied bond and
12 determined Petitioner was a danger to the community because "After his most
13 recent illegal entry he has committed numerous crimes, including domestic violence
14 offenses and violation of a domestic violence protective order."⁶

15 In his amended petition, Petitioner asserted he has never committed
16 domestic violence and provided documentation that the IJ confused Petitioner with
17 another person.⁷

18 In their Response, Respondents gloss over this error by arguing the IJ didn't
19 actually consider the domestic violence: "In her oral decision at the hearing, the
20 Immigration Judge notes that she is not taking the domestic violence conviction
21 into account because she does not know if it is the Petitioner."⁸ Respondents,
22 however, provide no citation for this assertion. More importantly, the decision later
23 written by the IJ refutes Respondents' assertion because the IJ explicitly cited
24 domestic violence as a key factor in determining Petitioner is a danger to the

25 ⁶ ECF No. 11-3 at 3.

26 ⁷ ECF No. 7 at 6-7.

27 ⁸ ECF No. 11 at 2.

1 community.⁹ Therefore, the IJ relied upon factually erroneous information in
2 denying bond.

3 A review of Petitioner's actual criminal history shows he is not a danger to
4 the community. The Ninth Circuit has recognized one of the "most pertinent"
5 factors at custody determinations to be an "alien's criminal record, including the
6 extensiveness of criminal activity, the recency of such activity, and the seriousness
7 of the offenses." *Singh v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011). Here, other
8 than minor crimes last committed in 2010 when he was a teenager, Petitioner has
9 only received traffic citations in the past 15 years, and Petitioner has paid off all the
10 fines.¹⁰ There is no reason to believe Petitioner cannot resolve the misdemeanor
11 DUI from February 11, 2025, that resulted in the instant federal detention,
12 especially when he has already started paying the fine despite being in custody all
13 this time.¹¹ In similar circumstances where the IJ relied on erroneous information
14 to deny bond, this Court has ordered the detainee's release. *Montero-Martinez v.*
15 *Mattos*, No. 2:25-CV-02391-CDS-DJA, 2026 WL 674497, at *2 (D. Nev. Mar. 9,
16 2026). Accordingly, Petitioner's present detention violates his Fifth Amendment due
17 process rights and he has been detained for *more than a year* based on untrue
18 information. He must be released now.

19 **III. Alternatively, Petitioner's continued detention without an adequate**
20 **bond hearing violates his due process rights.**

21 If this Court doesn't release Petitioner immediately, Petitioner requests a
22 new bond hearing. Petitioner has been detained in federal custody since February
23 12, 2025. His last bond hearing occurred on September 19, 2025, more than six
24 months ago. His prolonged detention without the opportunity for a renewed bond

25 ⁹ ECF No. 11-3 at 3.

26 ¹⁰ ECF No. 11-2 at 11-24.

27 ¹¹ ECF No. 9-5.

1 hearing violates his due process rights under the Fifth Amendment of the United
2 States Constitution. “The Fifth Amendment’s Due Process Clause forbids the
3 Government to ‘depriv[e]’ any ‘person . . . of . . . liberty . . . without due process of
4 law.’ Freedom from imprisonment—from government custody, detention, or other
5 forms of physical restraint—lies at the heart of the liberty that Clause protects.”
6 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S.
7 71, 80 (1992)). “Arbitrary civil detention is not a feature of our American
8 government. “[L]iberty is the norm, and detention prior to trial or without trial is
9 the carefully limited exception.” *Rodriguez v. Marin*, 909 F.3d 252, 256–57 (9th Cir.
10 2018) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

11 The government incorrectly identifies the issue in this case. They argue that
12 because Petitioner has a final order of removal, he falls squarely in the *Zadvydas*
13 post-order detention period.¹² This post-order detention period allows the
14 government to hold an individual ordered removed in detention for a period
15 “reasonably necessary to bring about the alien’s removal from the United States.”
16 *Zadvydas*, 533 U.S. at 689. The government argues that because Petitioner still has
17 an appeal pending in the Ninth Circuit, his post-order detention period has not
18 begun. According to the government, therefore, they can detain Petitioner
19 indefinitely, as there is no indication when his appeal will be decided. This is
20 incorrect. Additionally, it is important to understand where Petitioner is in the
21 appeals process.

22 Here, Petitioner was ordered removed on February 9, 2010.¹³ Petitioner
23 subsequently reentered the country. On February 12, 2025, Petitioner was arrested
24 by local police and taken into ICE custody. Petitioner then sought a review of his
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26 ¹² ECF No. 11 at 10-11.

27 ¹³ ECF No. 11-2 at 2, 6.

1 Reasonable Fear Determination and was interviewed by an asylum officer on March
2 18, 2025,¹⁴ but the IJ denied his request on April 18, 2025.¹⁵ Petitioner appealed
3 this decision to the Ninth Circuit in Case No. 25-2551, where the case remains
4 pending.¹⁶ Therefore, Petitioner has had his immigration case open for about a year.

5 The government contends that Petitioner is properly, indefinitely detained
6 while his petition is pending before the Ninth Circuit.¹⁷ They are incorrect. In
7 considering the issue of prolonged detention in ICE custody pursuant to mandatory
8 detention, the Ninth Circuit has expressed “grave doubts that any statute that
9 allows for arbitrary prolonged detention without any process is constitutional or
10 that those who founded our democracy precisely to protect against the government’s
11 arbitrary deprivation of liberty would have thought so.” *Rodriguez*, 909 F.3d at 256.
12 Addressing a similar issue, Justice Kennedy, concurring in *Demore*, 538 U.S. at 532,
13 explained that “since the Due Process Clause prohibits arbitrary deprivations of
14 liberty, a lawful permanent resident alien such as respondent could be entitled to
15 an individualized determination as to his risk of flight and dangerousness if the
16 continued detention became unreasonable or unjustified.” Other circuits have
17 similarly determined that unreasonably prolonged detention violates a noncitizen’s
18 due process rights. *See Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024); *Reid v.*
19 *Donelan*, 17 F.4th 1, 7 (1st Cir. 2021).

20 Petitioner’s continued detention without a renewed bond hearing is the type
21 of arbitrary deprivation of liberty the Due Process Clause of the Constitution
22 protects against. *See Rodriguez*, 909 F.3d at 257 (“An alien is a ‘person.’ To hold him
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25 ¹⁴ ECF No. 9-1 at 41.

26 ¹⁵ ECF No. 11-2 at 27.

27 ¹⁶ ECF No. 9-1.

¹⁷ ECF No. 11 at 10-11.

1 without bail is to deprive him of bodily ‘liberty.’ And, where there is no bail
2 proceeding, there has been no bail-related ‘process’ at all. The Due Process Clause—
3 itself reflecting the language of the Magna Carta—prevents arbitrary detention.”
4 (quoting *Jennings*, 583 U.S. at 330 (Breyer, J., dissenting) (internal citations
5 omitted)).

6 “[I]t remains undetermined whether the Due Process Clause requires
7 additional bond procedures under” 8 U.S.C. § 1231. *Rodriguez Diaz v. Garland*, 53
8 F.4th 1189, 1201 (9th Cir. 2022). However, as outlined above, both the Supreme
9 Court and the Ninth Circuit have suggested that, at some point, continued
10 detention during removal proceedings without a bond hearing will run afoul of the
11 due process guarantee of the Constitution. *See also Vargas v. Wolf*, No. 2:19-cv-
12 02135-KJD-DJA, 2020 WL 1929842, at *7 (D. Nev. Apr. 21, 2020) (“Nearly all
13 district courts that have considered the issue agree that prolonged mandatory
14 detention pending removal proceedings, without a bond hearing, will—at some
15 point—violate the right to due process.”); *Arechiga v. Archambeault*, No. 2:23-cv-
16 00600-CDS-VCF, 2023 WL 5207589 (D. Nev. Aug. 11, 2023) (acknowledging that
17 prolonged mandatory detention in immigration custody without a bond hearing can
18 violate the Due Process Clause).

19 This question should be resolved in favor of ordering a bond hearing here, as
20 the Court persuasively concluded in *Hilario M.R. v. Warden, Mesa Verde Det. Ctr.*,
21 No. 1:24-CV-00998-EPG-HC, 2025 WL 1158841 (E.D. Cal. Apr. 21, 2025); *see also*
22 *De Leon v. Mayorkas*, No. 2:23-cv-02073-GMN-VCF, 2024 WL 343437 (D. Nev. Jan.
23 29, 2024); *Ortiz-Castillo v. United States*, No. 2:23-cv-01485-RFB-MDC, 2024 WL
24 756075 (D. Nev. Feb. 23, 2024); *Portillo Portillo v. Bondi*, No. 2:26-CV-00155-CDS-
25 NJK, 2026 WL 800710 (D. Nev. Mar. 23, 2026). In *Hilario M.R.*, as here, the
26 petitioner was detained under § 1321(a)(6). *Id.* at *1. The petitioner in *Hilario* had
27 been ordered removed in 2007 but returned sometime thereafter. *Id.* In 2023, ICE

1 officers arrested petitioner and he was served with a Notice of Intent/Decision to
2 Reinstate Prior [Removal] Order. *Id.* The petitioner was placed in withholding-only
3 proceedings after an asylum officer found he had a reasonable fear of returning to
4 his country. *Id.* The petitioner filed and withdrew a motion for a bond hearing the
5 same month he was detained. *Id.* He filed a second bond motion in January 2024,
6 but it was denied because the immigration judge found he had not been detained
7 long enough. *Id.* Several days later, petitioner filed a third motion for bond hearing,
8 but subsequently withdrew the motion. *Id.* Then, in February 2024 petitioner filed a
9 fourth motion for bond hearing, which was denied because the immigration judge
10 found the government met their burden to establish that he was a “danger to the
11 community.” *Id.* (internal citation marks omitted). In August 2024, ten months after
12 he had first been detained and six months since his last bond hearing, petitioner
13 filed a 2241 for writ of habeas corpus in the Eastern District of California. *Id.* at *2.

14 The *Hilario* Court began its analysis with *Zadvydas*, where the Supreme
15 Court “read an implicit limitation’ into the statute ‘in light of the constitution’s
16 demands,’ holding that § 1231(a)(6) does not authorize indefinite detention and
17 ‘limits an alien’s post-removal-detention to a period reasonably necessary to bring
18 about that alien’s removal from the United States.’” *Id.* at *4 (citing *Zadvydas*, 533
19 U.S. at 689). The *Hilario* Court next turned to decisions by the Ninth Circuit. In
20 *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011), the Court “applied ‘the canon of
21 constitutional avoidance and construe[d] § 1231(a)(6) as requiring an individualized
22 bond hearing, before an immigration judge, for aliens facing prolonged detention
23 under that provision’ and held that ‘[s]uch aliens are entitled to release on bond
24 unless the government establishes that the alien is a flight risk or will be a danger
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1 to the community.” *Id.* at *5 (quoting *Diouf*, 634 F.3d at 1086).¹⁸ Considering this
 2 background, the *Hilario* Court applied *Mathews v. Eldridge*, 424 U.S. 319 (1976), to
 3 determine whether petitioner’s continued detention was reasonable. *Id.* at *6.

4 Recognizing that “due process is flexible and calls for such procedural
 5 protections as the particular situation demands,” *Mathews* lays out a three-factor
 6 test to analyze whether a claimant has been provided with adequate due process.
 7 *Ortiz-Castillo*, 2024 WL 756075, at *2 (citing *Mathews*, 424 U.S. at 333). These
 8 familiar factors are: (1) “the private interest that will be affected by the official
 9 action”; (2) “the risk of erroneous deprivation of such interest through the
 10 procedures used, and probable value, if any, of additional or substitute procedural
 11 safeguards”; and (3) “the Government’s interest, including the function involved and
 12 the fiscal and administrative burdens that the additional or substitute procedural
 13 requirement would entail.” *Mathews*, 424 U.S. at 334–35.

14 The *Mathews* factors provide an appropriate framework to analyze the
 15 constitutionality of Petitioner’s continued detention. As applied to his case, the
 16 factors this Court should consider are: (1) Petitioner’s liberty interest; (2) the risk
 17 that Petitioner is erroneously being deprived of his liberty due to his continued
 18 detention without a bond hearing, and the probable value of a bond hearing in
 19 ensuring that he is not erroneously deprived of his liberty; and (3) the government’s
 20 interest in detaining Petitioner without affording him another bond hearing, and
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 24 ¹⁸ The Court also considered *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir.
 25 2015), where the Ninth Circuit held that for “noncitizens detained under 8 U.S.C. §§
 26 1225(b), 1226(a), and 1226(c) ‘the government must provide periodic bond hearings
 27 every six months so that noncitizens may challenge their continued detention as
 their period of confinement grows.’” *Id.* (quoting *Rodriguez*, 804 F.3d at 1089)
 (cleaned up). The Supreme Court found this interpretation of a 6-month time limit
 on the length of mandatory detention to be incorrect. *Jennings*, 583 U.S. 281.

1 the fiscal and administrative burdens that affording him a bond hearing would
2 entail.

3 **A. The first *Mathews* factor weighs in Petitioner's favor because**
4 **his liberty interest is substantial.**

5 Petitioner has been detained for more than a year (since February 12, 2025),
6 and it has been six months (since September 2025) since the government has had to
7 provide any justification for Petitioner's continued detention. *See Rodriguez*, 53
8 F.4th at 1207 (finding that detention of 14 months after first bond hearing qualifies
9 as "prolonged"); *see also Lopez v. Garland*, 631 F. Supp. 3d 870, 880 (E.D. Cal. 2022)
10 (finding detention of approximately one year without a bond hearing to be
11 unreasonable and listing cases in which detention of less than a year without a
12 bond hearing was deemed unreasonable). Petitioner's private interest in being free
13 from such prolonged detention is clearly substantial. *See Singh v. Holder*, 638 F.3d
14 1196, 1208 (9th Cir. 2011) ("The private interest here—freedom from prolonged
15 detention—is unquestionably substantial."). Therefore, this factor weighs strongly
16 in his favor.

17 To the extent some courts have noted that the interest in being free from
18 prolonged detention may be diminished where a petitioner plays a role in his
19 prolonged detention by his decision to challenge his removal order, this Court
20 should not find Petitioner's pending Ninth Circuit appeal weighs against his
21 request for a bond hearing. *See Rodriguez Diaz*, 53 F.4th at 1207–08; *but see*
22 *Jimenez v. Wolf*, No. 19-CV-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30,
23 2020) ("Jimenez cannot be faulted, however, for his decision to accept the assistance
24 of counsel [or] his decision to appeal"). Ultimately, Petitioner's liberty interest
25 should not be diminished because of the exercise of his appellate rights. But even if
26 this Court finds his liberty interest is diminished by his actions, it should be to a
27 minimal degree. *See Ortiz-Castillo*, 2024 WL 756075, at *3 (determining that

petitioner's liberty interest was only minimally diminished by his challenges to his removal where he raised legitimate collateral challenges to his removal order and made use of the statutorily permitted appeals process).

The first *Mathews* factor supports granting relief.

B. The second *Mathews* factor weighs in Petitioner's favor because he can show that his continued detention without a bond hearing is likely to result in the erroneous deprivation of his liberty.

"The second *Mathews* factor is 'the risk of an erroneous deprivation of [petitioner's liberty] interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards.'" *Rodriguez Diaz*, 53 F.4th at 1209 (quoting *Mathews*, 424 U.S. at 335). In this analysis, the Court looks at "the existing agency procedures" and whether they sufficiently protect the petitioner's liberty interest and mitigate the risk of erroneous deprivation. *Id.* For example, in evaluating the risk of erroneous deprivation in the context of noncitizen detention, the Ninth Circuit has looked to whether the detainee has a statutory right to procedural protections, such as individualized custody determinations and the right to seek additional bond hearings throughout detention. *See id.* at 1209–10 (finding a small risk of erroneous deprivation where petitioner was detained under a different provision and thus received numerous procedural protections, including individualized custody determinations and right to seek additional bond hearings). As in all procedural due process analyses, the Court looks at the "risk of error inherent" in the processes used, "as applied to the generality of cases." *Mathews*, 424 U.S. at 344; *see, e.g., Goldberg v. Kelly*, 397 U.S. 254, 269 (1970) (finding additional process was needed because the written-submission process provided was "an unrealistic option for most recipients, who lack the educational attainment necessary to write effectively and who cannot obtain professional assistance").

1 Here, the second factor weighs in Petitioner's favor because there is a
2 significant risk that he is being erroneously deprived of his liberty. It has been six
3 months since the government had to provide any justification for Petitioner's
4 continued detention. At a full and fair bond hearing, the government would unlikely
5 be able to establish that Petitioner is a flight risk or danger to the community. As
6 detailed in his amended petition, Joel has been a productive member of the Las
7 Vegas community since his family first brought him here at age 8, he goes to church
8 every Sunday and volunteers his time there, and he's even started a small business
9 where he employs others.¹⁹ His diligence and demonstrated commitment to fighting
10 his removal shows Petitioner is unlikely to flee. Finally, the government would not
11 be able to prove that Petitioner is a danger to the community given that he has
12 limited criminal history—just a recent misdemeanor DUI—and certainly not
13 domestic violence crimes as erroneously alleged.

14 Relatedly, the probable value of additional procedural safeguards is high
15 because Petitioner has not been provided with any constitutionally adequate
16 procedural safeguards in months, and because he would likely be released if given a
17 new bond hearing. “[A]s the period of confinement grows, so do the required
18 procedural protections no matter what level of due process may have been sufficient
19 at the moment of initial detention.” *Hong v. Mayorkas*, 2022 WL 1078627, at *5
20 (W.D. Wash. Apr. 11, 2022) *appeal dismissed sub nom. Yang v. Mayorkas*, 2022 WL
21 4127534 (9th Cir. Sept. 6, 2022) (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 853
22 (2d Cir. 2010)). Here, even assuming Petitioner's denial of bond and subsequent
23 detention was constitutionally permissible, his continued detention of more than a
24 year, including six months since his last bond hearing, has rendered his detention
25 unconstitutional.

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27 ¹⁹ ECF No. 7 at 7.

1 To comport with due process, Petitioner should be afforded a renewed bond
 2 hearing before an immigration judge where the government must prove that
 3 Petitioner presents a flight risk or danger by clear and convincing evidence to
 4 justify his continued detention.

5 **C. The third *Mathews* factor weighs in Petitioner’s favor because**
 6 **the administrative and fiscal burden of conducting a bond**
 7 **hearing is not significant and neither is the government’s**
 8 **interest in detaining Petitioner without a bond hearing.**

9 The third and final *Mathews* factor also weighs in Petitioner favor. While it
 10 may be true that the government “has a strong interest in preventing aliens from
 11 ‘remain[ing] in the United States in violation of our law’” and “has an obvious
 12 interest in ‘protecting the public from dangerous criminal aliens,’” those interests
 13 are not the ones implicated by this petition. *See Rodriguez Diaz*, 53 F.4th at 1208
 14 (quoting *Demore*, 538 U.S. at 515, 518). “[I]t is important to stress that the
 15 government interest at stake here is not the continued detention of Petitioner, but
 16 the government’s ability to detain him without a bond hearing.” *Singh v. Garland*,
 17 No. 1:23-CV-01043-EPG-HC, 2023 WL 5836048, at *6 (E.D. Cal. Sept. 8, 2023)
 18 (internal quotations omitted); *see also Henriquez v. Garland*, No. 5:22-cv-00869-
 19 EJD, 2022 WL 2132919, at *5 (N.D. Cal. June 14, 2022) (“Although the Government
 20 has a strong interest in enforcing the immigration laws and in ensuring that
 21 lawfully issued removal orders are promptly executed, the Government’s interest in
 22 detaining Petitioner without providing an individualized bond hearing is low.”).

23 The government’s interest in continuing to detain Petitioner without a bond
 24 hearing is minimal, especially because “[c]ourts generally have found that the cost
 25 of providing a bond hearing is relatively minimal.” *Eliazar G.C. v. Wofford*, No.
 26 1:24-CV-01032-EPG-HC, 2025 WL 711190, at *8 (E.D. Cal. Mar. 5, 2025); *see also*
 27 *Singh v. Barr*, 400 F. Supp. 3d 1005, 1021–22 (S.D. Cal. 2019) (“Here, given the
 ‘minimal cost of conducting a bond hearing, and the ability of the IJ to adjudicate

1 the ultimate legal issue as to whether [petitioner's] continued detention is justified,
2 the Court concludes that the government's interest is not as weighty as
3 [petitioner's]."). As a result, the third factor weighs in Petitioner's favor.

4 **D. Under the balancing test, the Court should order a hearing.**

5 Petitioner's continued detention violates his rights under the Due Process
6 Clause of the United States Constitution. Accordingly, he must be given a
7 constitutionally adequate hearing in which he can seek release on bond, with the
8 burden on the government to prove that he should continue to be detained. If
9 Petitioner is not granted such a hearing, he must be released from his
10 unconstitutional detention. *See, e.g., Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762,
11 778 (N.D. Cal. 2019) (granting relief and ordering the government to either hold a
12 timely bond hearing or release the petitioner); *Singh v. Barr*, 400 F. Supp. at 1022
13 (granting relief and ordering the government to hold a new custody hearing with
14 the burden on the government within 15 days or release the petitioner); *Ortiz-*
15 *Castillo*, 2024 WL 756075 (granting petition and ordering respondents to provide
16 petitioner with a bond hearing before an immigration judge with the burden on the
17 government within 30 days); *Arechiga*, 2023 WL 5207589 (ordering respondents to
18 provide a bond hearing in front of an immigration judge with the burden on the
19 government within 21 days, and that failure to do so may result in release of the
20 petitioner).

21 Given Petitioner's prolonged detention, this Court should order his release if
22 Respondents fail to schedule a bond hearing before an immigration judge within 30
23 days, with the burden on the government to prove that he must remain in custody.
24 *See, e.g., Israel Nunez Figueroa v. John Mattos, et al.*, No. 2:26-0184-RFB-MDC,
25 ECF No. 15, at 2 (D. Nev. Feb. 16, 2026).

CONCLUSION

This Court should grant the writ and order Petitioner Joel Jeronimo Martin's immediate release from custody.

Dated March 31, 2026

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Ron Sung

Ron Sung
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