

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Katherine A. Tanaka
5 Assistant Federal Public Defender
6 California State Bar No. 314082
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 Katherine_Tanaka@fd.org

11 *Attorney for Petitioner Gilberto Gonzalez-Diaz

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Gilberto Gonzalez-Diaz,

15 Petitioner,

16 v.

17 Pamela Bondi, *et al.*,

18 Respondents.

Case No. 2:26-cv-00413-APG-BNW

First Amended § 2241 Petition

19 INTRODUCTION

20 Gilberto Gonzalez-Diaz has lived in the United States for the last four years.
21 He is a citizen of Cuba who came to the United States in March 2022 seeking
22 political asylum. On July 15, 2025, Mr. Gonzalez-Diaz was arrested in Las Vegas,
23 Nevada, for allegedly possessing a controlled substance, less than 14 grams. Two
24 days later, he was transferred to Nevada Southern Detention Center on an
25 immigration hold. On August 19, 2025, the District Attorney denied the case for
26 prosecution.¹ Aside from this arrest, Mr. Gonzalez-Diaz has no criminal history.

27 ¹ See Exhibit 1.

1 On February 10, 2026, Mr. Gonzalez-Diaz appeared before an Immigration
2 Judge to request a bond hearing. However, the Immigration Judge erroneously
3 denied bond finding he/she did not have jurisdiction.²

4 Mr. Gonzalez-Diaz has been in detention since July 2025 without a bond
5 hearing. Since being in custody, Mr. Gonzalez-Diaz's brother has been diagnosed
6 with a rapidly-progressing form of throat cancer. He has lost any ability to
7 communicate with Mr. Gonzalez-Diaz and has instead been relying on his caregiver
8 to relay information.

9 Mr. Gonzalez-Diaz has family in this country and no criminal history. There
10 does not appear to be any reason why he would be denied bond, if he were given the
11 bond hearing to which he is entitled. His prolonged detention without a bond
12 hearing violates his due process rights under the Fifth Amendment of the United
13 States Constitution. Thus, for the reasons discussed below, Mr. Gonzalez-Diaz
14 respectfully requests this Court order he be released from custody or, in the
15 alternative, given a renewed bond hearing.

16 JURISDICTION AND VENUE

17 This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which grants
18 federal courts the authority to issue writs of habeas corpus to individuals in custody
19 if that custody is a "violation of the Constitution or laws or treaties of the United
20 States." 28 U.S.C. §2241(c)(3); *see also Demore v. Kim*, 538 U.S. 510, 516–17 (2003)
21 (holding § 2241 is the proper vehicle through which to challenge the
22 constitutionality of a noncitizen's detention without bail); *Jennings v. Rodriguez*,

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27 ² These factual allegations are made on information and belief. The documents that could corroborate these facts are in the possession of the Federal Respondents. To the extent Respondents raise any information to the contrary, Mr. Gonzalez-Diaz reserves the right to file a second amended petition, if necessary.

1 583 U.S. 281, 294–96 (2018) (holding that neither 8 U.S.C. §§ 1226(e) nor 1252(b)(9)
2 bar review of constitutional challenges to prolonged immigration detention).

3 Venue is proper in the District of Nevada under 28 U.S.C. §1391(e) because
4 Mr. Gonzalez-Diaz is detained in this district and a substantial part of the events or
5 omissions giving rise to Mr. Gonzalez-Diaz's claim occurred in this district.

6 PARTIES

7 Petitioner Gilberto Gonzalez-Diaz is a longtime resident of the United States
8 who is currently detained by ICE at the Nevada Southern Detention Center in
9 Pahrump, Nevada.

10 Respondent John Mattos is the warden of the Nevada Southern Detention
11 Center. Mattos is the immediate custodian of Mr. Gonzalez-Diaz.

12 Respondent Michael Bernacke is the Field Office Director for the Salt Lake
13 City Field Office of ICE Enforcement and Removal Operations, which has
14 jurisdiction over Mr. Gonzalez-Diaz. He is named in his official capacity and is a
15 legal custodian of Mr. Gonzalez-Diaz.

16 Respondent Todd Lyons is the Acting Director of ICE. He is named in his
17 official capacity. As the leader of ICE, the agency responsible for detaining and
18 removing noncitizens, Lyons is a legal custodian of Mr. Gonzalez-Diaz.

19 Respondent Kristi Noem is the Secretary of the United States Department of
20 Homeland Security (DHS). She is named in her official capacity. As the Secretary of
21 DHS, Noem is responsible for the administration of immigration laws. *See* 8 U.S.C.
22 § 1103(a). Noem is a legal custodian of Mr. Gonzalez-Diaz.

23 Respondent Pamela Bondi is the Attorney General of the United States and
24 the most senior official in the U.S. Department of Justice. Bondi is named in her
25 official capacity. The Attorney General delegates his authority to interpret the
26 immigration laws and adjudicate removal cases to the Executive Office of
27

1 Immigration Review (EOIR), which includes the immigration courts and the Board
2 of Immigration Appeals. Bondi is a legal custodian of Mr. Gonzalez-Diaz.

3 **PROCEDURAL HISTORY**

4 Mr. Gonzalez-Dias entered the country in March 2022 after fleeing from
5 Cuba in 2019. Although he originally entered without inspection, Mr. Gonzalez-Diaz
6 turned himself in to immigration authorities and was ultimately detained for
7 almost two months. He was eventually released on his own recognizance. Based on
8 information and belief, Mr. Gonzalez-Diaz has not had any issues since his original
9 release in 2022.

10 That same year, Mr. Gonzalez-Diaz applied for asylum in the United States.
11 Mr. Gonzalez-Diaz's brother, Ernesto Herada-Gonzalez, also lives in the United
12 States and had been helping Mr. Gonzalez-Diaz with his immigration proceedings.
13 Unfortunately, Mr. Gonzalez-Diaz's brother was diagnosed with throat cancer and
14 requires fulltime care.

15 On July 15, 2025, Mr. Gonzalez-Diaz was arrested by Metro Police Officers in
16 Las Vegas, Nevada, for allegedly possessing a controlled substance, less than 14
17 grams. At the time of the arrest, Mr. Gonzalez-Diaz was the passenger in the car of
18 one of his friends. On August 14, 2025, the District Attorney denied the case for
19 prosecution.³

20 On October 10, 2025, Mr. Gonzalez-Diaz appeared before an Immigration
21 Judge who denied Mr. Gonzalez-Diaz's petition for asylum and ordered him
22 removed.⁴ On October 20, 2025, Mr. Gonzalez-Diaz filed an appeal before the BIA.⁵

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26 ³ See Exhibit 1.

27 ⁴ See Exhibit 2.

⁵ *Id.*

1 Based on information and belief, the appeal is still pending.⁶ On February 10, 2026,
2 Mr. Gonzalez-Diaz appeared for a bond hearing, but the Immigration Judge found
3 he/she did not have jurisdiction to issue bond.

4 GROUND FOR RELIEF

5 **Ground One: Mr. Gonzalez-Diaz's continued detention without a bond**
6 **hearing violates his due process rights because he cannot legally be**
7 **subject to mandatory detention under 8 U.S.C. §1225(b)(2).**

8 Mr. Gonzalez-Diaz was detained in the interior of the United States—
9 specifically, Las Vegas, Nevada—following his arrest for criminal charges that have
10 since been denied for prosecution.⁷ Accordingly, the only legal authority under
11 which he may lawfully be detained is 8 U.S.C. §1226(a), which is the detention
12 authority that applies to noncitizens detained in the interior of the U.S., and who do
13 not fall into a different category of mandatory detention. Under Section 1226(a),
14 detention of noncitizens is discretionary, and only warranted where the noncitizen
15 is determined to present a flight risk or danger to the community. *See Escobar*
16 *Salgado v. Mattos*, No. 2:25-cv-01872-RFB-EJY, 2025 WL 3205356, at *2 (D. Nev.
17 Nov. 17, 2025).

18 That notwithstanding, in mid-2025, ICE began arguing in immigration courts
19 around the country that noncitizens who entered the U.S. without admission,
20 regardless of how long they have lived in the U.S. or that they were encountered by
21 ICE in the interior of the country, should be viewed as “seeking admission,” and
22 therefore subject to mandatory detention under 8 U.S.C. 1225(b)(2). The BIA
23 adopted this novel statutory interpretation in *Matter of Yajure Hurtado*, 29 I&N
24 Dec. 216. This new (and widely rejected) reasoning appears to have been applied to

25 ⁶ The EOIR Automated Case Information currently states “No appeal was
26 received for this case.” However, Mr. Gonzalez-Diaz has never received information
27 that the appeal he filed in October 2025 was resolved. *See* Exhibit 2.

⁷ *See* Exhibit 1.

1 Mr. Gonzalez-Diaz to unlawfully deny him the opportunity to have his request for
2 release on bond considered.

3 “Judges across the country—the vast majority who have considered this
4 question—have told the Government many times in the past few months that its
5 interpretation of the law is wrong . . . judges appointed by every President from
6 Ronald Reagan through Donald Trump have said so.” See *Gimenez Rivero v. Mina*,
7 et al., No. 6:26-CV-66-RBD-NWH, 2026 WL 199319, at *5 (M.D. Fla. Jan. 26, 2026).
8 At least 373 judges nationwide have ruled against the government’s argument,
9 including 44 that were appointed by President Trump.⁸ Only 28 judges (as of
10 February 12, 2026) and recently the Fifth Circuit, in a split decision with a lengthy
11 dissent, have sided with the government.⁹

12 In this District, Judge Boulware has rejected ICE’s argument in several
13 cases. See *Jacobo Ramirez, et al., v. Noem, et al.*, No. 2:25-CV-02136-RFB-MDC,
14 2026 WL 310090, at *1 (D. Nev. Feb. 5, 2026) (“this Court has granted
15 individualized relief—both preliminary and on the merits—to habeas petitioners in
16 well over sixty similar challenges and counting.”); see also *Escobar Salgado v.*
17 *Mattos*, No. 2:25-CV-01872-RFB-EJY, 2025 WL 3205356 (D. Nev. Nov. 17, 2025) for
18 Judge Boulware’s thorough and detailed analysis of the issue.

19 Mr. Gonzalez-Diaz urges this Court to adopt Judge Boulware’s thorough
20 reasoning and statutory interpretation in *Escobar Salgado*. Because Mr. Gonzalez-
21 Diaz was not an applicant for admission when he was detained—indeed, he was
22 detained in the interior of the United States after living here for years—he cannot
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24 ⁸ Kyle Cheney, *Even Trump’s own appointees are ruling against ICE’s mass*
25 *detention strategy*, Politico (Feb. 12, 2026),
26 [https://www.politico.com/news/2026/02/12/donald-trump-judges-mandatory-](https://www.politico.com/news/2026/02/12/donald-trump-judges-mandatory-detention-rulings-00778256?utm_medium=twitter&utm_source=dlvr.it)
[detention-rulings-00778256?utm_medium=twitter&utm_source=dlvr.it](https://www.politico.com/news/2026/02/12/donald-trump-judges-mandatory-detention-rulings-00778256?utm_medium=twitter&utm_source=dlvr.it)

27 ⁹ *Id.* See also *Buenrostro-Mendez v. Bondi*, No. 25-cv-20496, 2026 WL 323330
(5th Cir. Feb. 6, 2026).

1 be properly subjected to mandatory detention under 1225(b). Accordingly, this
2 Court should order Mr. Gonzalez-Diaz's release, or that he receive a prompt and
3 constitutionally adequate bond hearing in immigration court, as he was entitled to
4 under 8 U.S.C. §1226(a).¹⁰

5 **Ground Two: Mr. Gonzalez-Diaz's prolonged detention without a bond**
6 **hearing violates his right to due process under the Fifth Amendment of the**
7 **United States Constitution.**

8 "The Fifth Amendment's Due Process Clause forbids the Government to
9 'depriv[e] any 'person . . . of . . . liberty . . . without due process of law.' Freedom
10 from imprisonment—from government custody, detention, or other forms of physical
11 restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*,
12 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).
13 "Arbitrary civil detention is not a feature of our American government. '[L]iberty is
14 the norm, and detention prior to trial or without trial is the carefully limited
15 exception.'" *Rodriguez v. Marin*, 909 F.3d 252, 256–57 (9th Cir. 2018) (quoting
16 *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

17 In considering the issue of prolonged detention in ICE custody pursuant to
18 mandatory detention, the Ninth Circuit has expressed "grave doubts that any
19 statute that allows for arbitrary prolonged detention without any process is
20 constitutional or that those who founded our democracy precisely to protect against
21 the government's arbitrary deprivation of liberty would have thought so."
22 *Rodriguez*, 909 F.3d at 256. Addressing a similar issue, Justice Kennedy, concurring
23 in *Demore v. Kim*, 538 U.S. 510, 532 (2003), pronounced that "since the Due Process
24 Clause prohibits arbitrary deprivations of liberty, a lawful permanent resident alien
25 such as respondent could be entitled to an individualized determination as to his

26 ¹⁰ Mr. Gonzalez-Diaz respectfully requests the opportunity to complete
27 supplemental briefing on this issue should this Court determine it would be useful
in evaluating the merits of this claim.

1 risk of flight and dangerousness if the continued detention became unreasonable or
2 unjustified.” Other circuits have similarly determined that unreasonably prolonged
3 detention violates a noncitizen’s due process rights. *See Black v. Decker*, 103 F.4th
4 133, 143 (2d Cir. 2024); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021).

5 Mr. Gonzalez-Diaz’s continued mandatory detention without a bond hearing
6 is the type of arbitrary deprivation of liberty the Due Process Clause of the
7 Constitution protects against. *See Rodriguez*, 909 F.3d at 257 (“The Fifth
8 Amendment says that ‘[n]o person shall be . . . deprived of life, liberty, or property
9 without due process of law.’ An alien is a ‘person.’ To hold him without bail is to
10 deprive him of bodily ‘liberty.’ And, where there is no bail proceeding, there has
11 been no bail-related ‘process’ at all. The Due Process Clause—itsself reflecting the
12 language of the Magna Carta—prevents arbitrary detention.” (quoting *Jennings v.*
13 *Rodriguez*, 583 U.S. 281, 330 (2018) (Breyer, J., dissenting) (internal citations
14 omitted)).

15 There is no precedent from the Supreme Court or the Ninth Circuit on the
16 question of when prolonged mandatory detention in immigration custody becomes
17 unconstitutional. However, as outlined above, both the Supreme Court and the
18 Ninth Circuit have suggested that, at some point, continued detention during
19 removal proceedings without a bond hearing will run afoul of the due process
20 guarantee of the Constitution. Furthermore, “[n]early all district courts that have
21 considered the issue agree that prolonged mandatory detention pending removal
22 proceedings, without a bond hearing, will—at some point—violate the right to due
23 process.” *Vargas v. Wolf*, No. 2:19-cv-02135-KJD-DJA, 2020 WL 1929842, at *7 (D.
24 Nev. Apr. 21, 2020) (quoting *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1116 (W.D.
25 Wash. 2019), *appeal dismissed*, 2019 WL 5885047 (9th Cir. Oct. 9, 2019)); *see also*
26 *De Leon v. Mayorkas*, No. 2:23-cv-02073-GMN-VCF, 2024 WL 343437 (D. Nev. Jan.
27 29, 2024); *Ortiz-Castillo v. United States*, No. 2:23-cv-01485-RFB-MDC, 2024 WL

1 756075 (D. Nev. Feb. 23, 2024); *Arechiga v. Archambeault*, No. 2:23-cv-00600-CDS-
2 VCF, 2023 WL 5207589 (D. Nev. Aug. 11, 2023) (acknowledging that prolonged
3 mandatory detention in immigration custody without a bond hearing can violate the
4 Due Process Clause).

5 **A. Mr. Gonzalez-Diaz's continued detention without a bond**
6 **hearing violates his due process rights pursuant to *Mathews v.***
7 ***Eldridge*.**

8 Courts in this circuit have used various legal tests to determine whether due
9 process compels a bond hearing in a particular case. Many courts, including in the
10 District of Nevada, have used the test from *Mathews v. Eldridge*, 424 U.S. 319
11 (1976), to evaluate whether an ICE detainee's continued detention without a bond
12 hearing has become unconstitutional. *See, e.g., De Leon*, 2024 WL 343437.
13 Recognizing that "due process is flexible and calls for such procedural protections as
14 the particular situation demands," *Mathews* lays out a three-factor test to analyze
15 whether a claimant has been provided with adequate due process. *Ortiz-Castillo*,
16 2024 WL 756075, at *2 (citing *Mathews*, 424 U.S. at 333). These familiar factors
17 are: (1) "the private interest that will be affected by the official action"; (2) "the risk
18 of erroneous deprivation of such interest through the procedures used, and probable
19 value, if any, of additional or substitute procedural safeguards"; and (3) "the
20 Government's interest, including the function involved and the fiscal and
21 administrative burdens that the additional or substitute procedural requirement
22 would entail." *Mathews*, 424 U.S. at 334–35.

23 The *Mathews* factors provide an appropriate framework to analyze the
24 constitutionality of Mr. Gonzalez-Diaz's continued detention. As applied to his case,
25 the factors this Court should consider are: (1) Mr. Gonzalez-Diaz's liberty interest;
26 (2) the risk that Mr. Gonzalez-Diaz is erroneously deprived of his liberty due to his
27 continued mandatory detention without a bond hearing, and the probable value of a
bond hearing in ensuring that he is not erroneously deprived of his liberty; and (3)

1 the government's interest in detaining Mr. Gonzalez-Diaz without affording him a
2 bond hearing, and the fiscal and administrative burdens that affording him a bond
3 hearing would entail.

4 **1. The first *Mathews* factor weighs in Mr. Gonzalez-Diaz's**
5 **favor because his liberty interest is substantial.**

6 Mr. Gonzalez-Diaz has been detained since July 2025 and because the
7 Immigration Judge believed he/she lacked jurisdiction, Respondents have not been
8 required to provide any justification for Mr. Gonzalez-Diaz's continued detention.
9 Mr. Gonzalez-Diaz's private interest in being free from such prolonged and
10 arbitrary detention is clearly substantial. *See Singh v. Hodler*, 638 F.3d 1196, 1208
11 (9th Cir. 2011) ("The private interest here—freedom from prolonged detention—is
12 unquestionably substantial.").

13 To the extent some courts have noted that the interest in being free from
14 prolonged detention may be diminished where a petitioner plays a role in his
15 prolonged detention by his decision to challenge his removal order, this Court
16 should not find Mr. Gonzalez-Diaz's pending immigration appeal weighs against his
17 request for a bond hearing. Mr. Gonzalez-Diaz has sought political asylum based on
18 his credible fear of persecution if returned to Cuba. Because he has raised a
19 substantial and legitimate challenge to his removal, the exercise of his appellate
20 rights does not reduce his considerable interest in being free from prolonged
21 detention. *See Ortiz-Castillo v. United States*, No. 2:23-cv-01485-RFB-MDC, 2024
22 WL 756075, at *3 (D. Nev. Feb. 23, 2024) (finding first *Mathews* factor weighed in
23 petitioner's favor because petitioner's substantial liberty interest was only
24 "minimally" diminished by the fact that he raised "legitimate collateral challenges
25 to his removal order" and "made use of the statutorily permitted appeals process"
26 (internal quotation marks omitted)).

27 ///

1 **2. The second *Mathews* factor weighs in Mr. Gonzalez-Diaz's**
2 **favor because he can show that his continued detention**
3 **without a bond hearing is likely to result in the**
4 **erroneous deprivation of his liberty.**

5 “The second *Mathews* factor is ‘the risk of an erroneous deprivation of [Mr.
6 Gonzalez-Diaz’s liberty] interest through the procedures used, and the probable
7 value, if any, of additional or substitute procedural safeguards.’” *Rodriguez Diaz*, 53
8 F.4th at 1209 (quoting *Mathews*, 424 U.S. at 335). In this analysis, the Court looks
9 at “the existing agency procedures” and whether they sufficiently protect the
10 petitioner’s liberty interest and mitigate the risk of erroneous deprivation. *Id.* For
11 example, in evaluating the risk of erroneous deprivation in the context of noncitizen
12 detention, the Ninth Circuit has looked to whether the detainee has a statutory
13 right to procedural protections, such as individualized custody determinations and
14 the right to seek additional bond hearings throughout detention. *See id.* at 1209–
15 10 (finding a small risk of erroneous deprivation where petitioner was detained
16 under a different provision and thus received numerous procedural protections,
17 including individualized custody determinations and right to seek additional bond
18 hearings).

19 As in all procedural due process analyses, the Court looks at the “risk of error
20 inherent” in the processes used, “as applied to the generality of cases.” *Mathews*,
21 424 U.S. at 344; *see, e.g., Goldberg v. Kelly*, 397 U.S. 254, 269 (1970) (finding
22 additional process was needed because the written-submission process provided was
23 “an unrealistic option for most recipients, who lack the educational attainment
24 necessary to write effectively and who cannot obtain professional assistance”).

25 Here, the second factor weighs in Mr. Gonzalez-Diaz’s favor because there is
26 a significant risk that he is being erroneously deprived of his liberty. Mr. Gonzalez-
27 Dias has been detained for almost eight months and during that time he has never
had a hearing to determine whether detention was warranted based on his

1 individual circumstances. The passage of a substantial period since a determination
2 was made regarding whether Mr. Gonzalez-Diaz needs to be detained establishes a
3 risk that he is erroneously being subjected to continued detention.

4 At a full and fair bond hearing, Respondents would unlikely be able to
5 establish that Mr. Gonzalez-Diaz is a flight risk or danger to the community. Mr.
6 Gonzalez-Diaz has been living in this country for the last four years after fleeing
7 from Cuba. He has a brother who has lived in this country for several years and
8 who is battling cancer. Mr. Gonzalez-Diaz's family circumstances, in addition to his
9 diligence and demonstrated commitment to fighting his removal show that Mr.
10 Gonzalez-Diaz is unlikely to flee. Additionally, the government would not be able to
11 prove that Mr. Gonzalez-Diaz is a danger given that he has no prior criminal
12 convictions and his only arrest was never authorized for prosecution. Finally, it is
13 also worth noting that back in 2022, the immigration court ultimately determined
14 Mr. Gonzalez-Diaz met the requirements for release on his own recognizance.

15 Relatedly, the probable value of additional procedural safeguards is high
16 because Mr. Gonzalez-Diaz has not been provided with any constitutionally
17 adequate procedural safeguards in almost seven months, and because he would
18 likely be released if given a new bond hearing. "[A]s the period of confinement
19 grows, so do the required procedural protections no matter what level of due process
20 may have been sufficient at the moment of initial detention." *Hong v. Mayorkas*,
21 2022 WL 1078627, at *5 (W.D. Wash. Apr. 11, 2022) *appeal dismissed sub nom.*
22 *Yang v. Mayorkas*, 2022 WL 4127534 (9th Cir. Sept. 6, 2022) (quoting *Velasco Lopez*
23 *v. Decker*, 978 F.3d 842, 853 (2d Cir. 2010)).

24 Here, Mr. Gonzalez-Diaz has been detained for nearly eight months when
25 there is no compelling reason to do so based on propensity for danger or flight.
26 Accordingly, to comport with due process, Mr. Gonzalez-Diaz should be afforded a
27 bond hearing before an immigration judge where Respondents must prove that he

1 presents a flight risk or danger by clear and convincing evidence to justify his
2 continued detention. As noted above, it is likely Mr. Gonzalez-Diaz would be
3 released if given a bond hearing because Respondents could not meet their burden
4 in this case.

5 **3. The third *Mathews* factor weighs in Mr. Gonzalez-Diaz's**
6 **favor because the administrative and fiscal burden of**
7 **conducting a bond hearing is not significant and neither**
8 **is the government's interest in detaining Mr. Gonzalez-**
9 **Diaz without a bond hearing.**

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

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

1 'minimal cost of conducting a bond hearing, and the ability of the IJ to adjudicate
2 the ultimate legal issue as to whether [petitioner's] continued detention is justified,
3 the Court concludes that the government's interest is not as weighty as
4 [petitioner's]."). As a result, the third factor weighs in Mr. Gonzalez-Diaz's favor.

5 **B. This Court should order Respondents to release Gonzalez-Dias**
6 **or provide a constitutionally adequate hearing to seek release**
7 **on bond.**

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

24 Given Mr. Gonzalez-Diaz's prolonged detention, the Court should order his
25 release if Respondents fail to schedule a bond hearing before an immigration judge
26 within 30 days, with the burden on the government.

27 ///

///

CONCLUSION

The Court should grant Mr. Gonzalez-Diaz's petition and order him released. In the alternative, Mr. Gonzalez-Diaz requests that Respondents schedule a bond hearing before an immigration judge at which point the judge must order Mr. Gonzalez-Diaz released unless ICE can establish by clear and convincing evidence that he presents a risk of flight or danger to the community.

Dated March 10, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Katherine A. Tanaka
Katherine A. Tanaka
Assistant Federal Public Defender

