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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
IMPERIAL

Kuljit Singh,

Petitioner,

v.

GREGORY J. ARCHAMBEAULT Field Office Director of the Bakersfield and Imperial Field Office of U.S. Immigration and Customs Enforcement; JOSEPH B. EDLOW, Acting Director of U.S. Immigration and Customs Enforcement; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; PAM BONDI, Attorney General of the United States,

Respondents.

Case No,: '26CV1076 RBM BJW

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

Immigration Habeas Case

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PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Kuljit Singh, petitions this Court for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241 and the Administrative Procedure Act, 5 U.S.C. § 701, et Seq., to remedy his continued unlawful detention by Respondents. Petitioner hereby requests that an immediate hearing be set on this matter. Petitioner also requests that he be released during the pendency of this Petition. In support of this Petition, Petitioner alleges as follows:

I. INTRODUCTION

1. Petitioner Kuljit Singh, ("Petitioner" or "Mr. Singh") has been civilly imprisoned by U.S. Immigration and Customs Enforcement ("ICE") at the Imperial Detention Facility ("Imperial") since December 15, 2025, about 2 months.

2. Petitioner has been detained even though no neutral decision maker, neither a federal judge nor immigration judge ("IJ"), has conducted a hearing to determine whether this lengthy incarceration is warranted based on danger or flight risk.

3. Respondent bond hearing was denied because the Judge found "Respondent is an applicant for admission" and was subject to mandatory detention.

4. Petitioner's prolonged detention without a hearing on danger and flight risk violates the Due Process Clause of the Fifth Amendment.

5. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus, determine that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of available alternatives to detention, and order Petitioner's release, with appropriate conditions of supervision if necessary, taking into account Petitioner's ability to pay a bond.

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

II. JURISDICTION AND VENUE

7. Petitioner is detained in the custody of Respondents at the Imperial detention center.

8. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution. Jurisdiction is proper under 28 U.S.C. §§ 1331 (federal question), 2241 (habeas corpus); U.S. Const. art. I, § 2; (Suspension Clause): and 5 U.S.C. § 702 (Administrative Procedure Act). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

9. Congress has preserved judicial review of challenges to prolonged immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-841 (2018) (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar review of challenges to prolonged immigration detention); see also *id.* at 876 (Breyer, J., dissenting). ("8 U.S.C. § 1252(b)(9) . . . by its terms applies only with respect to review of an order of removal")

10. Venue is proper in the IMPERIAL District because a substantial part of the events giving rise to these claims occurred and continue to occur in this district.

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III. REQUIREMENTS OF 28 U.S.C. § 2243

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

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

IV. PARTIES

13. Petitioner is a noncitizen currently detained by Respondent pending ongoing removal proceedings.

14. Respondent Secretary of the U.S. Department of Homeland Security ("DHS"), an agency of the United States, is responsible for the administration of the immigration laws. 8 U.S.C. § 1103(a). They are a legal custodian of Petitioner. They are named in their official capacity.

15. Respondent Acting or Current Attorney General of the United States is the most senior official in the U.S. Department of Justice ("DOJ"). They have the authority to interpret the immigration laws and adjudicate removal cases. They delegate this responsibility to the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals ("BIA"). They are named in their official capacity.

16. Respondent Acting or Current Field Office Director of the San Diego ICE Field Office is responsible for the San Diego Field Office of ICE with administrative jurisdiction over Petitioner's case. They are a legal custodian of Petitioner and are named in their official capacity. Respondent Acting or Current

Director of ICE is responsible for ICE's policies, practices. and procedures, including those relating to the detention of immigrants. They are a legal custodian of Petitioner and are named in their official capacity.

17. Respondent Current Director of ICE is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants. They are a legal custodian of Petitioner and are named in their official capacity.

V. STATEMENT OF FACTS

18. Petitioner is a noncitizen currently detained by Respondents pending immigration proceedings. Petitioner is currently pursuing an application for asylum, withholding and Protection under the Convention Against Torture.

19. Petitioner has been detained in DHS custody since December 15, 2025.

20. Petitioner has not been provided a bond hearing before a neutral decisionmaker to determine whether their prolonged detention is justified based on danger or flight risk.

21. Petitioner has requested a bond hearing at it was denied for lack of jurisdiction.

22. Pursuant to 8 U.S.C. § 1226(c), the Immigration Court lacks jurisdiction and authority to provide Petitioner with a bond hearing to determine whether Petitioner's detention is justified. There is no statutory or regulatory pathway for Petitioner to seek a bond hearing before a neutral decisionmaker.

23. Absent intervention by this Court, Petitioner cannot and will not be provided with a bond hearing by a neutral decisionmaker to assess the propriety of Petitioner's continued detention.

24. Petitioner entered the United States on October 28. 2025, and was released on his own recognizance

25. Petitioner continued and appeared at his hearings as scheduled.

26. Petitioner appeared at his ICE check-in as regularly scheduled and was arrested on December 15, 2025. He has been in custody since that time.

27. Petitioner has no criminal history whatsoever.

VI. LEGAL BACKGROUND

28. "'It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.'" *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); see also id. at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. See *id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious").

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

30. Due process requires that the government provide bond hearings to noncitizens facing prolonged detention. "The Due Process Clause foresees eligibility for bail as part of due process" because "[b]ail is basic to our system of law." *Jennings*, 138 S. Ct. at 862 (Breyer, J., dissenting) (internal quotation marks omitted). While the Supreme Court upheld the mandatory detention of a noncitizen under Section 1226(c) in *Demore*, it did so based on the petitioner's concession of deportability and the Court's understanding at the time that detentions under Section 1226(c) are typically "brief." *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a prolonged period or is pursuing a substantial

defense to removal or claim to relief, due process requires an individualized determination that such a significant deprivation of liberty is warranted. Id. at 532 (Kennedy. J., concurring) ("[I]ndividualized determination as to his risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); see also *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (holding that detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir , Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (holding that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (holding that, in the Eighth Amendment context, "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards"); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021) (holding that "the Due Process Clause imposes some form of reasonableness limitation upon the duration of detention" under section 1226(c)) (internal quotation marks omitted

VII. LEGAL ARGUMENTS

A. AN INDIVIDUALIZED BOND HEARING IS REQUIRED WHEN DETENTION BECOMES UNREASONABLY PROLONGED.

31. Petitioner's detention, without any individualized review, is unreasonable under the *Mathews v. Eldridge* due process test. Alternatively, Petitioner prevails under the multi-factor reasonableness test the Third Circuit adopted in *German Santos v. Warden Pike Correctional Facility*, 965 F.3d 203, 211 (3d Cir. 2020).

32. Each year, thousands of noncitizens are incarcerated for lengthy periods pending the resolution of their removal proceedings. See *Jennings*, 138 S. Ct. at 860 (Breyer, J., dissenting) (observing that class members. numbering in the thousands. had been detained "on average one year" and some had been detained for several years). For noncitizens, who have some criminal history, their immigration detention

often dwarfs the time spent in criminal custody, if any. *Id.* ("between one-half and two-thirds of the class served [criminal] sentences less than six months").

33. Petitioner faces severe hardships while detained by ICE. Petitioner is held in a locked down facility, with limited freedom of movement and access to Petitioner's family or support network: "[T]he circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); accord *Chavez–Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 478 (3d Cir. 2015); Ngo v. INS, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016). "And in some cases the conditions of their confinement are inappropriately poor" including, for example, "invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Press Release, Off. of Inspector Gen., Dept. of Homeland Sec., DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (Dec. 14, 2017)); see also Tom Dreisbach, Government's own experts found 'barbaric' and 'negligent' conditions in ICE detention, NPR (Aug. 16, 2023, 5:01 AM) (reporting on the "'negligent' medical care (including mental health care), 'unsafe and filthy' conditions, racist abuse of detainees, inappropriate pepper-spraying of mentally ill detainees and other problems that, in some cases, contributed to detainee deaths" contained in inspection reports prepared by experts from the Department of Homeland Security's Office for Civil Rights and Civil Liberties after examining detention facilities between 2017 and 2019).

34. The Mathews test for procedural due process claims balances: (1) the private interest threatened by governmental action; (2) the risk of erroneous deprivation of such interest and the value of additional or substitute safeguards; and (3) the government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976);

see also *Salesh P.*, 2022 WL 17082375, at *8 (collecting cases where judges in the Northern District of California applied the Mathews factors to a habeas petitioner's due process claims). Here, each factor weighs in Petitioner's favor, requiring this Court to promptly hold a hearing to evaluate whether the government can justify their ongoing detention.

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

36. Second, Petitioner will suffer the erroneous risk of deprivation of their liberty without an individualized evidentiary hearing. The risk of erroneous deprivation of their liberty is high, as they have been detained since December 15, 2025 without any evaluation of whether the government can justify detention under their individualized circumstances. "[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is substantial." *Diouf*, 634 F.3d at 1092. Conversely, "the probable value of additional procedural safeguards— an individualized evaluation of the justification for his detention—is high, because Respondents have provided virtually no procedural safeguards at all." *Jimenez v. Wolf*, No. 19-cv-07996-NC, 2020 WL 510347, *3 (N.D. Cal. Jan. 30, 2020) (granting habeas petition for person who had been detained for one year without a bond hearing).

37. Third, the government's interest is very low in continuing to detain Petitioner without providing any neutral review. See *Mathews*, 424 U.S. at 335. The specific interest at stake here is not the government's ability to continue to detain Petitioner, but rather the government's ability to continue to detain them for months on end without any individualized review. See *Marroquin Ambriz v. Barr,* 420 F. Supp. 3d 953,

964 (N.D. Cal. 2019); *Henriquez v. Garland*, No. 5:22-CV-00869-EJD, 2022 WL 2132919, at *5 (N.D. Cal. June 14, 2022). The cost of providing an individualized inquiry is minimal. See Henriquez, 2022 WL 2132919, at *5. The government has repeatedly conceded this fact. See *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019); *Singh v. Barr*, 400 F. Supp. 3d 1005, 1021 (S.D. Cal. 2019); *Marroquin Ambriz*, 420 F. Supp. 3d at 964.

38. In sum, the *Mathews* factors establish that Petitioner is entitled to an evidentiary hearing before a neutral adjudicator. Unsurprisingly, courts applying these standards in this District and Circuit have repeatedly held that prolonged detention without a hearing before a neutral adjudicator violates procedural due process for individuals who were held under the same detention statute. See, e.g., *Romero Romero v. Wolf*, No. 20-CV-08031-TSH, 2021 WL 254435, at *2, *5 (N.D. Cal. Jan. 26, 2021) (holding that the petitioner's detention under § 1226(c) of just over one year without a custody hearing was "not compatible with due process" and granting habeas); *Jimenez*, 2020 WL 510347, at *1, *2, *4 (holding that the petitioner's detention under § 1226(c) of just over one year without a custody hearing violated his due process rights and granting habeas); *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, at *1, *5 (N.D. Cal. Jan. 25, 2019) (holding that the petitioner's detention under § 1226(c) for just over one year without a custody hearing violates his due process rights and granting habeas). This Court should so hold as well.

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

ongoing availability of this administrative process under § 1226(a). 53.F.4th at 1202 ("Section 1226(a) and its implementing regulations provide extensive procedural protections that are unavailable under other detention provisions . . . ."). Unlike the petitioner in *Rodriguez Diaz*, Petitioner has no statutory access to individualized review of his detention.

40. Alternatively, courts that apply a reasonableness test have considered four nonexhaustive factors in determining whether detention is reasonable. *German Santos v. Warden Pike Cnty. Corr Facility,* 965 F.3d 203, 210-22 (3d Cir. 2020). The reasonableness inquiry is "highly fact-specific." Id. at 210. "The most important factor is the duration of detention." Id. at 211; see also *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, at *1, *5 (N.D. Cal. Jan. 25, 2019) (concluding that the petitioner's detention under § 1226(c) for just over one year without a custody hearing weighed strongly in favor of finding detention unreasonable, and violated his due process rights and granting habeas). Duration is evaluated along with "all the other circumstances," including (1) whether detention is likely to continue, (2) reasons for the delay, and (3) whether the conditions of confinement are meaningfully different from criminal punishment. Id. at 211. 40. As noted, Petitioner has been detained for a substantial length of time, supra ¶ 20 and Petitioner's detention is likely to continue as Petitioner asserts their right to seek immigration relief, supra ¶ 19. Noncitizens should not be punished for pursuing "legitimate proceedings" to seek relief. See *Masood v. Barr*, No. 19-CV-07623-JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020) ("[I]t ill suits the United States to suggest that [Petitioner] could shorten his detention by giving up these rights and abandoning his asylum application."). Thus, courts should not count a continuance against the noncitizen when they obtained it in good faith to prepare their removal case, including efforts to obtain counsel. See *Hernandez Gomez*, 2023 WL 2802230, at *4 ("The duration and frequency of these requests [for continuances] do not diminish his significant liberty interest in his release or his irreparable injury of continued detention without a bond hearing."). Moreover, Petitioner's confinement

and experiences at a facility operated by a private, for-profit prison contractor, demonstrate that their conditions of confinement are not meaningfully different from those of criminal punishment.

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

43. To justify prolonged immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. See *Singh v. Holder,* 638 F.3d 1196, 1203 (9th Cir. 2011); *Aleman Gonzalez v. Barr*, 955 F.3d 762, 781 (9th Cir. 2020), rev'd on other grounds by *Garland v Aleman Gonzalez*, 142 S. Ct. 2057, 213 L. Ed. 2d 102 (2022) ("*Jennings*'s rejection of layering [the clear and convincing burden of proof standard] onto § 1226(a) as a matter of statutory construction cannot . . . undercut our constitutional due process holding in Singh."); *Doe v. Garland*, No. 3:22-CV03759-JD, 2023 WL 1934509, at *2 (N.D. Cal. Jan. 10, 2023) (applying *Singh* and holding that the government shall bear the burden in a constitutionally required bond hearing in the § 1226(c) context); *Pham v. Becerra*, No. 23-CV-01288-CRB, 2023 WL 2744397, at *7 (N.D. Cal. Mar. 31, 2023) (same); *Hernandez Gomez v. Becerra*, No. 23-CV-01330-WHO, 2023 WL 2802230, at *4 (N.D. Cal. Apr. 4. 2023) (same); *Martinez Leiva v. Becerra*, No. 23-CV-02027CRB, 2023 WL 3688097, at *9 (N.D. Cal. May 26, 2023); *I E.S. v. Becerra*, No. 23-CV-03783BLF, 2023 WL 6317617, at *10 (N.D. Cal. Sept. 27. 2023) (same); *Singh Grewal v. Becerra*, No. 23-CV-03621-JCS. 2023 WL 6519272, at *8 (N.D. Cal. Oct. 4, 2023) (same); *Gomez v. Becerra*, No. 23-CV-03724-JCS, 2023 WL 6232236, at *9 (N.D. Cal. Sept. 25. 2023) (same); *Henriquez v. Garland*, No. 23-CV-01025-AMO, 2023 WL

6226374, at *4 (N.D. Cal. Sept. 25, 2023) (same); *Rodriguez Picazo v. Garland*, No. 23-CV-02529-AMO, 2023 WL 5352897, at *7 (N.D. Cal. Aug. 21, 2023) (same).

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

45. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). First, "an individual's private interest in 'freedom from prolonged detention' is 'unquestionably substantial.'" See *Rodriguez Diaz*, 53 F.4th at 1207 (citing *Singh*, 638 F.3d at 1208). Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and may lack English proficiency. See *Santosky v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous fact finding" including that "parents subject to termination proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested"). Moreover, detained noncitizens are incarcerated in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing. See supra ¶ 32. Third, placing the burden on the government imposes minimal cost or inconvenience to it, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention. D.

46. Due Process Requires Consideration Of Alternatives To Detention. Due process also requires consideration of alternatives to detention. The primary purpose of immigration detention is to ensure a noncitizen's appearance during civil removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979) (civil pretrial detention may be unconstitutionally punitive if it is excessive in relation to its legitimate purpose). ICE's alternatives to detention program—the Intensive Supervision Appearance Program—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). Thus, alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

47. Due process likewise requires consideration of a noncitizen's ability to pay a bond. "Detention of an indigent 'for inability to post money bail' is impermissible if the individual's 'appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Hernandez*, 872 F.3d at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). Therefore, when determining the appropriate conditions of release for people detained for immigration purposes, due process requires "consideration of financial circumstances and alternative conditions of release." Id.; see also *Martinez v. Clark*, 36 F.4th 1219, 1231 (9th Cir. 2022) ("While the government had a legitimate interest in protecting the public and ensuring the appearance of noncitizens in immigration proceedings, we held [in Hernandez] that detaining an indigent alien without consideration of financial circumstances and alternative release conditions was 'unlikely to result' in a bond determination 'reasonably related to the government's legitimate interests.' (citation omitted).").

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B. THE GOVERNMENT HAS VIOLATED THE INA BY APPLY MANDATORY DETENTION TO PETITIONER

48. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

49. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge (IJ). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

50. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

51. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

52. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

53. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025). general, people who entered the country without admission or parole were not considered detained under § 1225 and that they were instead detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

54. Thus, in the decades that followed, most people who entered without admission or parole and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed —arriving‖ were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply —restates‖ the detention authority previously found at § 1252(a)).

55. On July 8, 2025, ICE, in coordination with‖ the Department of Justice, announced a new policy that rejected this well-established understanding of the statutory framework and reversed decades of practice.

56. Virtually every federal Court to be faced with this issue, has rejected Respondents' new interpretation of the INA's detention authorities, including this Court. See *Garcia v. Noem*, No. 5:25-cv-02771-ODW (PDx), 2025 WL 2986672, at *2-4 (C.D. Cal. Oct. 22, 2025); see also *Saucedo v. Noem*, No. 2:25-cv-11051-ODW (RAOx) (C.D. Cal. Nov. 20, 2025) (order granting temporary restraining order); *Longoria v. Noem*, No. 5:25-cv-03098-ODW (DFMx), 2025 WL 3302780, at *3 (C.D. Cal. Nov. 25, 2025) (same); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Saldana Guzman v. Noem*, No. 25-9687, at *6-10 (C.D. Cal. Oct. 31, 2025).

57. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

58. Petitioner submits that Respondents' decision to hold him in custody purportedly pursuant to § 1225(b)(2), where no such lawful authority exists, is in violation of the law and that his immediate release is the appropriate remedy, in the alternative, for this court to order Respondent's to schedule him for a bond hearing.

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VIII. CLAIM FOR RELIEF

COUNT 1: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

50. Petitioner re-alleges and incorporates by reference the paragraphs above. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

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

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

COUNT 2: VIOLATION OF INA

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

54. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to §1225(b)(1), § 1226(c), or § 1231

5. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

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IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

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

3) In the alternative, issue a Writ of Habeas Corpus and order Petitioner's release within 30 days unless Respondents schedule a hearing before an immigration judge where: (1) to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the government cannot meet its burden, the immigration judge order Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond;

4) Issue a declaration that Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment:

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

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

Respectfully submitted,

Date: February 18, 2026

/s/ Madelaine Behr

Madelaine Behr, Esq.

Attorney for Petitioner

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: February 18, 2026

/s/ Madelaine Behr
Madelaine Behr, Esq.