

Matthew Henry Springmeyer (Cal. SBN 292682)
Law Offices of Matthew H Springmeyer
401 H Street, STE 8
Chula Vista, CA 91910
PHONE: 619-237-0384
EMAIL: matt@springeyerlawfirm.com

Attorney for Petitioner

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
CIVIL DIVISION**

NAM DUC NGO,

Petitioner,

v.

Christopher J. LaRose Warden, Imperial Regional
Detention Center; Gregory J. Archambeault
San Diego Field Office, U.S. Immigration and
Customs Enforcement; Markwayne Mullin, Sect.
of the U.S. Department of Homeland Security;
and Todd Blanche, Acting Attorney General of the
United States, Todd M. Lyons, Director U.S.
Immigration and Customs Enforcement,
in their official capacities,

Respondents.

Case No. **'26CV2837 JLS MMP**

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Nam Duc Ngo, by and through undersigned counsel, Matthew Henry Springmeyer, respectfully petitions this Honorable Court for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241 to challenge the ongoing and unlawful detention by the United States Department of Homeland Security ("DHS") and its agents. Petitioner is currently detained at the Otay Mesa Detention Center at 7488 Calzada De La Fuente, San Diego, CA 92143.

2. Accordingly, to vindicate Petitioner's constitutional, statutory, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus.

3. The Petitioner entered the United States on May 28, 2023, and sought protection from persecution in Vietnam on account of his Catholic actual and imputed political opinion. DHS placed him into full removal proceedings under section 240 of the Immigration and Nationality Act ("INA"). Following his initial processing, the government released Mr. Ngo from custody. His asylum case remains pending, and no final order of removal has been entered.

4. ICE arrested Mr. Ngo and took him into custody at the Otay Mesa Detention Facility. The government did not identify any new criminal conduct, any violation of release conditions, or any other changed circumstances to justify that re-arrest. Despite having his asylum case pending and having diligently pursued relief without missing any court hearings or meetings with immigration officials.

5. The government released Mr. Ngo from custody in May 2023 following his entry. For over two years he complied fully with all conditions of his release, appeared at his immigration hearings, and gave the government no reason to revisit that decision. ICE re-arrested him with no identified change in circumstances, no new criminal conduct, and no violation of any release condition. That arbitrary re-detention violates the Fifth Amendment liberty interest created by his prior release.

6. Petitioner asks this Court to find that his re-detention without changed circumstances or individualized justification violates the Constitution and applicable statutes, and to order his release or, in the alternative, a bond hearing before an immigration judge at which the government bears the burden to justify detention.

JURISDICTION

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

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

9. This Court may grant relief under the habeas corpus statutes for those in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241 *et. seq.*, and the All Writs Act, 28 U.S.C. § 1651; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 525. Additionally, the court can grant habeas for noncitizens in custody as well. *Magana-Pizano v. I.N.S.*, 200 F.3d 603, 609 (9th Cir. 1999).

10. This Court retains jurisdiction over pre-final-order detention claims challenging the absence of a constitutionally adequate bond hearing. *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 950-51 (9th Cir. 2008).

VENUE

11. Venue is proper because Petitioner is detained at Otay Mesa Detention Center, 7488 Calzada De La Fuente, which is within the jurisdiction of this District.

12. Venue is further proper in this District because Respondents are officers, employees, or agencies of the United States, and a substantial part of the events or omissions giving rise to the claims occurred in this District, and Petitioner resides in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to

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

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

PARTIES

15. Petitioner Nam Duc Ngo is a native and citizen of Vietnam born   in Quang Cong commune, Quang Dien district, Thua Thien Hue province. ICE re-arrested him and he is currently detained at the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, CA 92154, in the custody and under the direct control of Respondents and their agents. He has not been afforded an individualized bond hearing at which the government bore the burden of proof at any point since his re-arrest.

16. Respondent Christopher J. LaRose is the Warden of the Otay Mesa Detention Center and has immediate physical custody of Petitioner. Respondent LaRose is a legal custodian of Petitioner. Please note that counsel will confirm the current warden designation prior to service and will amend if necessary.

17. Respondent Gregory J. Archambeault is sued in his official capacity as the Director of the San Diego Field Office of U.S. Immigration and Customs Enforcement. Respondent Archambeault is a legal custodian of Petitioner and has authority to release him.

18. Respondent Markwayne Mullin is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.

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

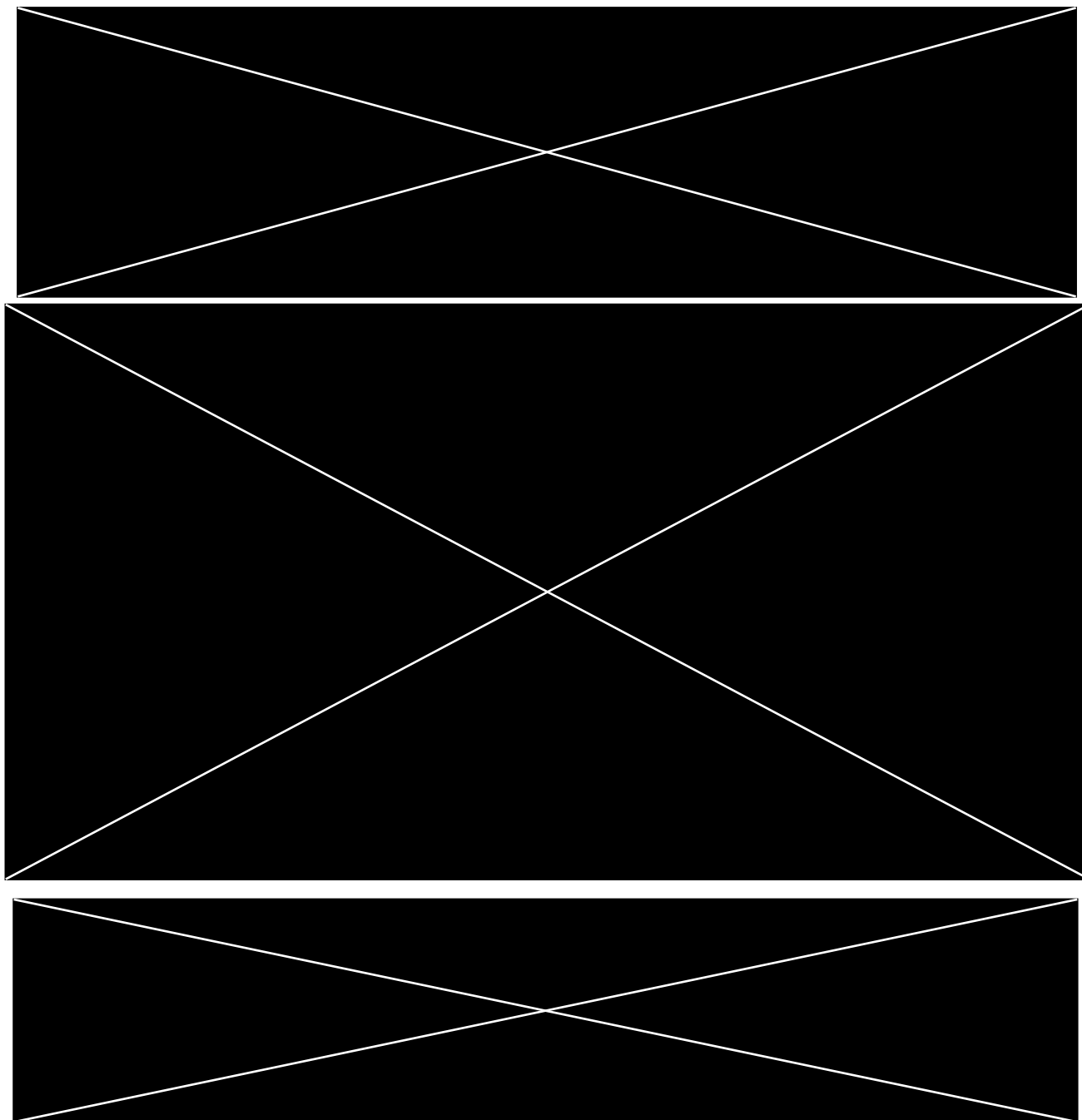
20. Respondent Todd M. Lyons is sued in his official capacity as the Director of U.S. Immigration and Customs Enforcement. In that capacity, he has the authority to detain, release, or supervise noncitizens in removal proceedings and is a legal custodian of Petitioner.

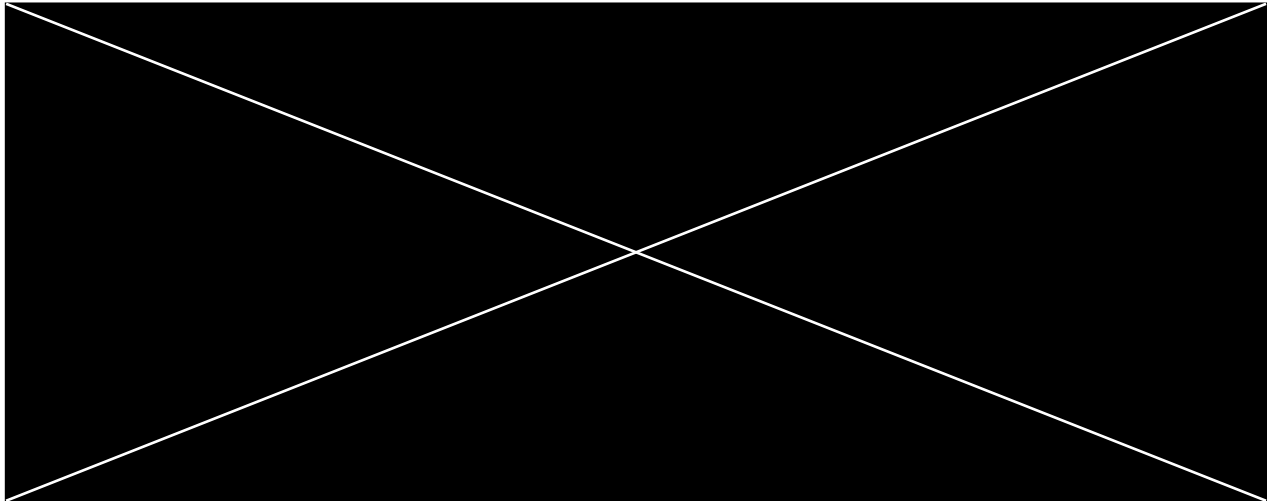
STATEMENT OF FACTS

21. Petitioner Nam Duc Ngo is a 25-year-old native and citizen of Vietnam from Quang Cong commune, Quang Dien district, Thua Thien Hue province. He fled Vietnam after being targeted by government security forces for filming a peaceful protest against the Vietnamese Communist government's confiscation of land from his family and neighboring households without adequate compensation.

22. On November 6, 2022, at approximately 9:30 a.m., Mr. Ngo joined a group of approximately 20 to 30 residents who gathered to peacefully protest the government's land confiscation. During the protest, police attacked the demonstrators. Mr. Ngo took out his phone to record what was happening as evidence. While filming, police beat him severely. He fell to

the ground and was unable to stand. Approximately six to seven officers surrounded him and kicked and stomped on him. His mouth and nose bled profusely. Police took his phone and left him on the ground. His family was called and took him to Hue Central Hospital, where he was admitted at 2:30 p.m. that same day.





27. Mr. Ngo entered the United States on May 28, 2023, in California. DHS issued a Notice to Appear and placed him into removal proceedings under 8 U.S.C. § 1229a. He was released from custody on his own recognizance pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 1236.1(c)(8). Mr. Ngo timely filed an I-589 Application for Asylum and for Withholding of Removal, seeking protection based on imputed political opinion and the Convention Against Torture. His case,  is currently before the Otay Mesa Immigration Court, before the Honorable Judge Mark Sameit, with a master calendar hearing scheduled for May 7, 2026. No final order of removal has been issued.

28. ICE re-arrested Mr. Ngo and took him into custody at the Otay Mesa Detention Center. Petitioner has not been provided any document setting forth the stated basis for his re-detention. There is no record of any administrative review, changed-circumstances analysis, or individualized determination that re-detention was warranted. The government has not identified any new criminal conduct, any violation of release conditions, or any other changed circumstance to justify his re-arrest. Nothing in Mr. Ngo's circumstances changed between his release in 2023 and his re-detention.

29. At no point since his re-arrest has Mr. Ngo been afforded an individualized bond hearing. Moreover, under the BIA's current precedent, any bond hearing before the immigration court would be constitutionally futile because the BIA has held that immigration judges lack jurisdiction to conduct bond hearings for noncitizens who entered without inspection and have not been admitted or paroled. *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). This Court's intervention is therefore necessary to ensure Mr. Ngo receives a constitutionally adequate hearing at which the government—not the detainee—bears the burden of justifying his detention.

LEGAL FRAMEWORK

A. Release from Custody Creates a Protected Liberty Interest

30. The Due Process Clause of the Fifth Amendment provides that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V. "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). This protection extends fully to noncitizens. *Id.* at 693; *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025).

31. Conditional release from physical restraint gives rise to a protected liberty interest. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Young v. Harper*, 520 U.S. 143, 150-53 (1997). "[E]ven when an initial decision to detain or release an individual is discretionary, the government's subsequent release of the individual from custody creates 'an implicit promise' that the individual's liberty will be revoked only if they fail to abide by the conditions of their release." *Calderon v. Kaiser*, No. 25-cv-06695-AMO, 2025 WL 2430609, at *2 (N.D. Cal. Aug. 22, 2025) (quoting *Morrissey*, 408 U.S. at 482). Numerous courts have extended this reasoning to the immigration context, holding that a noncitizen released from immigration detention has "a

liberty interest in remaining out of custody on bond." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019); *accord Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025).

32. The government's decision to release Mr. Ngo on his own recognizance under 8 C.F.R. § 1236.1(c)(8) was not merely administrative—it reflected a determination that release "would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8). Having made that finding in Mr. Ngo's favor, the government cannot reverse it without constitutionally adequate process. *See Pinchi v. Mullin*, No. 5:25-cv-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July 24, 2025).

B. Re-Detention Without Changed Circumstances Violates Due Process

33. When determining what process is due before re-detention, courts apply the three-factor balancing test of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976): (1) the private interest at stake; (2) the risk of erroneous deprivation without additional procedures; and (3) the government's countervailing interest. All three factors compel relief here.

34. First, the private interest could not be more weighty. Physical liberty is "the most elemental of liberty interests," *Foucha v. Louisiana*, 504 U.S. 71, 90 (1992), and a noncitizen who has built his life in the United States stands to lose not only freedom of movement but also the right to "stay and live and work" in the country. *Landon v. Plasencia*, 459 U.S. 21, 34 (1982).

35. Second, the risk of erroneous deprivation is manifest. DHS released Mr. Ngo in 2023 after determining he was not a flight risk or danger. He complied with every condition of his release, appeared at his immigration court hearings, filed his asylum application, and gave the government no reason to conclude that its prior determination was wrong. Where the

government has not pointed to any changed circumstances between release and re-detention, the risk that the re-detention is erroneous is high.

36. Third, the government has no legitimate countervailing interest in detaining a person who has already been determined to be neither dangerous nor a flight risk. "Detention for its own sake, to meet an administrative quota, or because the government has not yet established constitutionally required pre-detention procedures is not a legitimate government interest."

Pinchi, 2025 WL 2084921, at *5. Any administrative burden from a bond hearing is minimal given that Mr. Ngo is already in full removal proceedings. *Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, at *2 (E.D. Cal. Mar. 3, 2025). All three *Mathews* factors favor Petitioner.

C. Section 1226(a) Governs; Mandatory Detention Does Not Apply

37. Mr. Ngo is in full removal proceedings under 8 U.S.C. § 1229a, having been served a Notice to Appear and placed before an immigration judge. His detention is therefore governed by 8 U.S.C. § 1226(a), which authorizes discretionary arrest and detention and permits release on bond or conditional parole. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). DHS itself released Mr. Ngo pursuant to § 1226(a) and 8 C.F.R. § 1236.1(c)(8) following his initial processing, confirming § 1226(a) as the operative detention authority.

38. Section 1226(c) mandatory detention does not apply. Mr. Ngo has no criminal history in the United States and has not been charged with, arrested for, or convicted of any enumerated offense. Section 1226(c) is inapplicable on its face.

39. The government may contend that § 1225(b)(2) mandatory detention applies because Mr. Ngo entered without inspection. That argument fails. DHS already resolved this question when it released Mr. Ngo under § 1226(a) in 2023. It cannot now invoke a different,

more restrictive statute to re-detain him without process after having voluntarily released him under a discretionary one. Moreover, courts in this district have repeatedly rejected the government's expansive reading of mandatory detention under § 1225 for noncitizens in full § 1229a proceedings. *See, e.g., Vasquez Garcia v. Mullin*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025).

D. Administrative Exhaustion Is Excused as Futile

40. Petitioner need not first seek a bond hearing before the immigration court because any such hearing would be constitutionally futile. "[W]here the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required." *Vasquez-Rodriguez v. Garland*, 7 F.4th 888, 896 (9th Cir. 2021).

41. On September 5, 2025, the BIA issued *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that immigration judges lack jurisdiction to conduct bond hearings or grant bond to noncitizens who entered without inspection and have not been admitted or paroled—a category that includes Mr. Ngo. BIA decisions are binding on immigration judges. Any bond hearing before an IJ would therefore be conducted under this framework, in which the burden falls on Mr. Ngo rather than the government. That burden allocation is the constitutional inverse of what due process requires when the government re-detains someone it has already found to be neither a flight risk nor a danger. *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *Casas-Castrillon*, 535 F.3d at 951. Judicial intervention is therefore necessary. *G.S. v. Bostock*, No. 2:25-cv-01255-JNW, Report and Recommendation at 12 (W.D. Wash. Oct. 8, 2025) (exhaustion waived because *Yajure-Hurtado* forecloses constitutionally adequate administrative remedy).

CLAIMS FOR RELIEF

COUNT ONE

Violation of Procedural Due Process — Fifth Amendment

Arbitrary Re-Detention Without Pre-Deprivation Hearing or Changed Circumstances

42. The allegations in the above paragraphs are realleged and incorporated herein.

43. DHS released Mr. Ngo on his own recognizance in 2023, after determining under 8 C.F.R. § 1236.1(c)(8) that he was not a danger to the community and was likely to appear for his proceedings. From that date until his re-detention, Mr. Ngo honored that determination entirely: he appeared at his immigration court hearings, filed his asylum application, committed no crimes, and violated no conditions of release.

44. ICE re-arrested Mr. Ngo at some point prior to his May 7, 2026, master calendar hearing and took him into custody at Otay Mesa. The government has produced no document setting forth any basis for his re-detention. There is no evidence of any pre-deprivation hearing, no neutral decisionmaker who evaluated whether changed circumstances existed, and no individualized determination that Mr. Ngo had become a flight risk or danger. The government provided no process whatsoever before depriving him of liberty.

45. Under *Mathews*, all three factors favor Petitioner. His interest is the most fundamental liberty interest the Due Process Clause protects. The risk of erroneous deprivation is high re-detention was carried out with no process against a person the government itself had already cleared as neither dangerous nor a flight risk. And the government's interest in detaining a fully compliant releasee without any documented justification is at most minimal. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

46. The procedural due process violation is compounded by the unavailability of a constitutionally adequate remedy in immigration court. Under *Matter of Yajure-Hurtado*, 29

I&N Dec. 216 (BIA 2025), an IJ would lack jurisdiction to conduct a bond hearing or would conduct one at which the burden falls on Mr. Ngo rather than the government. Either outcome fails to cure the constitutional violation. This Court's intervention is required.

47. Petitioner's re-detention without a pre-deprivation hearing or any changed circumstances violates the procedural due process guarantee of the Fifth Amendment.

COUNT TWO

Violation of Substantive Due Process — Fifth Amendment

Re-Detention Bearing No Reasonable Relation to Any Legitimate Government Interest

48. The allegations in the above paragraphs are realleged and incorporated herein.

49. Substantive due process requires that "the nature and duration" of civil detention "bear some reasonable relation to the purpose for which the individual is" held. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Nonpunitive government detention violates the Due Process Clause unless it is justified by a special circumstance that outweighs the individual's constitutionally protected liberty interest. *Zadvydas*, 533 U.S. at 690.

50. The two recognized justifications for civil immigration detention are preventing flight risk and protecting the community from danger. *Id. Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). "[T]he government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions." *Hernandez*, 872 F.3d at 994.

51. Here, neither justification exists. The government itself determined in 2023 that Mr. Ngo was not a flight risk and did not pose a danger to the community. Nothing changed in the intervening period. He has no criminal record in the United States. He appeared at every

immigration court hearing. He filed his asylum application and is actively pursuing his case. His re-detention bears no reasonable relation to preventing flight or protecting the community—the only purposes that can constitutionally justify it.

52. Petitioner's re-detention therefore violates the substantive due process guarantee of the Fifth Amendment.

COUNT THREE

Violation of 8 U.S.C. § 1226 — Absence of Constitutionally Adequate Bond Hearing

53. The allegations in the above paragraphs are realleged and incorporated herein.

54. Under § 1226(a), noncitizens in removal proceedings receive bond hearings at the outset of detention. *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)). Mr. Ngo has been held since his re-arrest without any such hearing.

55. When the government re-detains someone, it has previously released, due process requires that any bond hearing be conducted with the burden on the government—not the detainee—to justify continued custody. *Singh*, 638 F.3d at 1203-04; *Casas-Castrillon*, 535 F.3d at 951. The original release decision already embedded a finding that Mr. Ngo was not dangerous or a flight risk; the government cannot reverse that finding without bearing the burden to show changed circumstances.

56. Because *Yajure-Hurtado* forecloses a constitutionally adequate bond hearing in immigration court, this Court must act. Petitioner's detention violates 8 U.S.C. § 1226 and the Fifth Amendment, and this Court should order his release or, in the alternative, a pre-detention hearing before a neutral decisionmaker at which the government bears the burden to demonstrate changed circumstances sufficient to establish that Petitioner is a flight risk or danger to the community.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's redetention without a hearing or changed circumstances violated procedural and substantive Due Process of the Fifth Amendment;
- (4) The continued detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231, and 8 C.F.R. § 241.13.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, in the alternative, to conduct a constitutionally adequate bond hearing with the burden on the government for why detention should continue without the application of *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: 05/04/2026

/s/ Matthew Henry Springmeyer
Matthew Henry Springmeyer, Esq.
Attorney for Petitioner

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

I represent Petitioner, Nam Duc Ngo, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: 05/05/2026

/s/ Matthew Henry Springmeyer
Matthew Henry Springmeyer, Esq.
Attorney for Petitioner