DETAINED

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Attorneys for Petitioner **Mahad Abdi Ahmed**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

In the matter of:	**Case Numbers: 26-cv-3153-RSH-DDL**
	26-cv-981-RSH-DDL
MAHAD ABDI AHMED	[redacted]
Petitioner	**MOTION TO ENFORCE JUDGMENT**
v.	**Challenge to Unlawful Incarceration; Request for Declaratory and Injunctive Relief**
JEREMY CASEY, WARDEN OF IMPERIAL REGIONAL DETENTION FACILITY	
Respondents	

INTRODUCTION

Petitioner Mahad Abdi Ahmed ("Petitioner") brings this Motion to Enforce Judgment pursuant to (28 U.S.C. § 1651), challenging his unreasonably prolonged and unconstitutional immigration detention under 8 U.S.C. § 1226(a).

1. Petitioner entered the United States on or about December 20, 2024, and has remained in custody since that date. He has now been detained for more than eighteen (18) months. Despite diligently pursuing all available forms of relief, his continued detention has become unreasonably prolonged and constitutionally impermissible.
2. On May 30, 2025, an Immigration Judge ordered Petitioner removed to Somalia. Petitioner timely appealed the Immigration Judge's decision to the Board of Immigration Appeals ("BIA") on June 26, 2025. On March 25, 2026, the BIA remanded Petitioner's appeal for further proceedings. Petitioner's upcoming Individual Hearing is scheduled for August 3, 2026. **See attached Exhibit "A" - Screenshot of the EOIR case status page.**
3. Petitioner has previously filed two habeas corpus petitions. In both instances, the federal court granted relief and ordered that Petitioner receive a bond hearing. Nevertheless, despite those orders, both bond hearings resulted in the denial of release, based primarily on findings that Petitioner allegedly posed a flight risk. Petitioner respectfully submits that these determinations were unsupported by the evidence and failed to adequately account for the circumstances of his prolonged detention.
4. On or about February 13, 2026, Petitioner filed his first petition for a writ of habeas corpus. On March 9, 2026, this Court granted Petitioner's habeas petition in Case No. 26-cv-981-RSH-DDL and ordered Respondents to provide Petitioner with a bond hearing within seven (7) days. The Court further ordered Respondents to confirm, within fourteen (14) days after the bond hearing, that

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such hearing had been conducted. Importantly, the Court expressly held that the Government bears the burden of proving, by clear and convincing evidence, that Petitioner poses a risk of flight or a danger to the community in order to justify continued detention. **A true and correct copy of the Court's Order is attached as Exhibit "B"**

5. On or about March 17, 2026, the Immigration Judge concluded that Petitioner presented a risk of flight and denied his request for release on bond. In reaching that determination, the Immigration Judge also relied on the fact that Petitioner's immigration case remained pending on appeal at the time. Additionally, the Immigration Judge found that Petitioner lacked sufficient community ties in the United States. However, the Immigration Judge failed to identify any bond amount or condition of release that could reasonably assure Petitioner's future appearance at proceedings. Accordingly, the Immigration Judge denied Petitioner's request for release on bond.
6. On March 25, 2026, the BIA remanded Petitioner's appeal for further proceedings. Petitioner's upcoming Individual Hearing is scheduled for August 3, 2026.
7. Circumstances materially changed in Petitioner's case. Specifically, the Board of Immigration Appeals had remanded Petitioner's appeal for further proceedings, and there had been significant updates regarding Petitioner's proposed sponsor. In light of these changed circumstances, on or about April 16, 2026, Petitioner filed a motion requesting a bond hearing. However, Immigration Judge Stuart J. Zander denied Petitioner's Bond, stating that he lacked jurisdiction to grant bond absent a new habeas corpus order from this Court. As a result, Petitioner remained in custody despite the material changes in his circumstances.
8. On or about May 20, 2026, Petitioner filed his second petition for a writ of habeas corpus. On June 5, 2026, this Court granted Petitioner's habeas petition

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in Case No. 26-cv-3153-RSH-DDL and ordered Respondents to provide Petitioner with an individualized bond hearing pursuant to 8 U.S.C. § 1226(a) within ten (10) days. **A true and correct copy of the Court's Order is attached as Exhibit "C".**

9. On or about June 15, 2026, the Immigration Judge denied Petitioner's request for release on bond following a hearing that failed to comply with this Court's June 5, 2026, Order and applicable Ninth Circuit precedent. Judge found that Petitioner presented a significant flight risk such that no amount of bond or conditions of release would reasonably ensure his future appearances in court. Contrary to this Court's directive that the Government bear the burden of proving, by clear and convincing evidence, that Petitioner posed a danger to the community or a risk of flight, the Immigration Judge relied on conclusory and unsupported assertions regarding Petitioner's alleged flight risk rather than specific, individualized evidence. The Immigration Judge disregarded substantial evidence favorable to Petitioner and failed to hold the Government to its required burden of proof. Instead, the decision effectively shifted the burden to Petitioner to demonstrate that he was not a flight risk. As a result, the bond proceeding did not comport with the requirements set forth in this Court's June 5, 2026, Order. **A true and correct copy of the Immigration Judge's Bond Order is attached as Exhibit "D".**

10. Alternatively, the Immigration Judge did not mitigate any perceived flight risk by setting a higher bond amount.

11. Petitioner contends that the Government did not establish by clear and convincing evidence that he is a flight risk.

12. Respondents' continued detention of Petitioner is therefore in direct violation of this Court's March 9, 2026, and June 5, 2026, Orders. The Government has not met and cannot meet its burden of establishing by clear and convincing

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evidence that Petitioner poses either a danger to the community or a flight risk. See Singh v. Holder, 638 F.3d 1196, 1203 (9th Cir. 2011).

13. During his prolonged detention, Petitioner has suffered significant physical and mental health deterioration. His continued confinement has caused and continues to cause serious harm.

14. There has been excessive and unjustified delay in the adjudication of Petitioner's immigration case, during which his health has severely deteriorated. Petitioner suffers from breathing difficulties, a back injury, and a head injury. These medical conditions have been exacerbated by his prolonged detention and continue to deteriorate as his confinement extends. Petitioner's ongoing detention has adversely affected his physical health and well-being, increasing the risk of further deterioration absent appropriate treatment and relief.

15. The Constitution protects all persons within the United States from arbitrary deprivation of liberty. Even in the immigration context, detention is subject to constitutional limitations, and prolonged civil detention without adequate procedural safeguards violates the Fifth Amendment. See Zadvydas v. Davis, 533 U.S. 678, 690, 695 (2001).

16. Absent intervention by this Court, Petitioner will remain detained without meaningful review and in continued violation of this Court's prior Orders. This Court retains inherent authority to enforce its judgments and ensure compliance.

17. Accordingly, Petitioner respectfully requests that this Court enforce its June 5, 2026, Order and order his immediate release from ICE custody. In the alternative, Petitioner requests that Respondents be ordered to provide a constitutionally compliant bond hearing within seven (7) days, at which the Government bears the burden of proof by clear and convincing evidence.

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JURISDICTION EXISTS AND EXHAUSTION IS NOT REQUIRED

18. This Court has jurisdiction over Petitioner's constitutional claims under 28 U.S.C. § 2241, which authorizes federal courts to review the legality of executive detention. The writ of habeas corpus remains available to challenge unlawful immigration detention, particularly where a petitioner alleges violations of due process.

19. The Supreme Court has long recognized that habeas jurisdiction extends to noncitizens challenging the legality of their detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (confirming availability of habeas relief to challenge post-removal-period detention); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges).

Exhaustion is not Required for Constitutional Challenges

20. Exhaustion of administrative remedies is not required where a petitioner raises constitutional claims that the agency lacks authority to resolve. The Ninth Circuit has consistently held that exhaustion is prudential, not jurisdictional, and does not apply where it would be futile or inadequate.

21. In *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), the Ninth Circuit confirmed that due process challenges to bond procedures are properly brought in habeas and do not require exhaustion where the agency cannot provide the requested relief. Similarly, in *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017), the court held that noncitizens may seek habeas relief to challenge constitutionally deficient bond proceedings.

22. District courts across this Circuit have applied the same principle in prolonged detention cases. Where the claim is that the process itself is unconstitutional,

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requiring exhaustion would serve no purpose because the agency cannot cure the constitutional defect.

Exhaustion is Excused Where it Would be Futile or Inadequate

23. Even where exhaustion might otherwise apply, it is excused where administrative remedies are inadequate or futile. See *Laing v. Ashcroft*, 370 F.3d 994, 1000–01 (9th Cir. 2004) (recognizing exceptions to exhaustion where remedies are inadequate, futile, or where irreparable harm would result).

24. Here, exhaustion is futile because Petitioner challenges the legal sufficiency of the bond hearing framework itself, not merely an individual decision. The Board of Immigration Appeals lacks authority to impose the constitutionally required burden of proof or to restructure detention proceedings to conform to due process requirements articulated in *Rodriguez-Diaz*.

25. Moreover, Petitioner faces ongoing and irreparable harm, including continued unlawful detention and severe medical deterioration. Under such circumstances, courts routinely excuse exhaustion.

Courts in This District Routinely Exercise Jurisdiction Without Requiring Exhaustion

26. Courts in this District, including this Court, regularly exercise habeas jurisdiction over immigration detention claims without requiring exhaustion, particularly where constitutional violations are alleged.

27. Most importantly, in Khan v. Noem, No. 3:26-cv-01274-JO-MMP, U.S. Southern District Court granted Motion to Enforce Judgment based on inadequate bond hearing.

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28. Similarly, in Rumiantseva v. Larose, No. 26-cv-2214-JO-DEB, U.S. Southern District Court granted Motion to Enforce Judgment based on inadequate bond hearing.

29. Likewise, in Hagos v. Warden Jeremy Casey, No. 3:26-cv-02365-JO-SBC, U.S. Southern District Court granted Motion to Enforce Judgment based on inadequate bond hearing.

30. These cases reflect a consistent practice: where detention violates constitutional standards, federal courts do not require prolonged administrative exhaustion before granting relief.

31. Here, Petitioner's challenge is not to the outcome of a discretionary decision, but to the constitutional adequacy of the process itself. Because the agency cannot remedy these constitutional violations, exhaustion is not required.

32. Requiring Petitioner to pursue additional administrative remedies would only prolong his unlawful detention and exacerbate the ongoing harm he is suffering. Under settled Supreme Court and Ninth Circuit precedent, this Court should exercise jurisdiction and grant relief.

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LEGAL FRAMEWORK

33. ICE's long-standing policy is to release non-citizens immediately following a grant of asylum, relief absent exceptional circumstances.

34. Under the Accardi doctrine, which originated in the context of an immigration case and has been developed through subsequent immigration caselaw, agencies are bound to follow their own rules that affect the fundamental rights of individuals, even self-imposed policies and processes that limit otherwise discretionary decisions. See Accardi v. Shaughnessy, 347 U.S. at 226 (holding that BIA must follow its own regulations in its exercise of discretion); Morton v. Ruiz, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected,

it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

35. The requirement that an agency follow its own policies is not "limited to rules attaining the status of formal regulations." Montilla v. INS, 926 F.2d 162, 167 (2d Cir. 1991). Even an unpublished policy binds the agency if "an examination of the provision's language, its context, and any available extrinsic evidence" supports the conclusion that it is "mandatory rather than merely precatory." Doe v. Hampton, 566 2d 265, 281 (D.C. Cir. 1977); see also Morton, 415 U.S. at 235-36 (applying Accardi to violation of internal agency manual); U S. v. Heffner , 420 F.2d 809, 813 (4th Cir. 1969) ("Nor does it matter that these IRS instructions to Special Agents were not promulgated in something formally labeled a 'Regulation' . . .").

36. When agencies fail to adhere to their own policies as required by Accardi, courts typically frame the violation as arbitrary, capricious, and contrary to law under the APA, see Damus v. Nielson, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) ("It is clear, moreover, that [Accardi] claims may arise under the APA"), or as a due process violation, see Sameena, Inc. v. United States Air Force , 147 F.3d 1148, 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.") (internal quotations omitted).

37. Prejudice is generally presumed when an agency violates its own policy. See Montilla, 926 F.2d at 167 ("We hold that an alien claiming the INS has failed to adhere to its own regulations . . . is not required to make a showing of prejudice before he is entitled to relief. All that need be shown is that the subject regulations were for the alien's benefit and that the INS failed to adhere to

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them."); Heffner, 420 F.2d at 813 ("The Accardi doctrine furthermore requires reversal irrespective of whether a new trial will produce the same verdict.").

38. To remedy an Accardi violation, a court may direct the agency to properly apply its policy, see Damus, 313 F. Supp. 3d at 343 ("[T]his Court is simply ordering that Defendants do what they already admit is required."), or a court may apply the policy itself and order relief consistent with the policy. See Jimenez v. Cronen, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) (scheduling bail hearing to review petitioners' custody under ICE's standards because "it would be particularly unfair to require that petitioners remain detained . . . while ICE attempts to remedy its failure").

CLAIMS FOR RELIEF

GROUND ONE

VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE PROCESS-FAILURE TO PROVIDE CONSTITUTIONALLY ADEQUATE PROCEDURAL SAFEGUARDS

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

40. Due process does not permit continued civil detention absent a fair and constitutionally adequate procedure.

41. A constitutionally sufficient bond hearing requires, at minimum, that the Government bear the burden of proof by clear and convincing evidence, that the adjudicator consider alternatives to detention, and that the adjudicator evaluate Petitioner's ability to pay and the adequacy of lesser conditions of release.

42. Petitioner did not receive such a hearing.

43. Despite substantial evidence demonstrating that he is neither a flight risk nor a danger to the community, and despite his strong community ties, Respondents continue to detain him without meaningful review.

44. Because the bond proceeding lacked the safeguards the Constitution requires, Petitioner's continued detention is unlawful.

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45. Petitioner plainly has due process rights to challenge his detention. *Zadvydas v. Davis*, 533 U.S. 678, 693, 695 (2001), makes clear that all persons within the United States are protected by the Due Process Clause, regardless of immigration status. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205–06 (9th Cir. 2022), likewise confirms that noncitizens are entitled to due process, including the right to challenge detention pending proceedings.

46. As the Ninth Circuit held, the Due Process Clause applies to noncitizens regardless of whether they are "seeking admission" or are "admitted" under immigration law. Wong v. United States, 373 F.3d 952, 973 (9th Cir. 2004), abrogated on other grounds by Wilkie v. Robbins, 551 U.S. 537 (2007); see also Padilla v. U.S. Immigr. & Customs Enf't, 704 F. Supp. 3d 1163, 1171 (W.D. Wash. 2023). The Due Process Clause allows Petitioner to challenge his detention.

47. Petitioner challenges the deprivation of his liberty, not the adequacy of admission procedures. This case concerns detention not the procedures governing his admission to the United States.

48. To the extent Respondent takes the extraordinary position that Petitioner has no due process rights at all, that is unsupported by law and would have gruesome practical consequences: "If excludable [noncitizens] were not protected by even the substantive component of constitutional due process, … we do not see why the United States government could not torture or summarily execute them. … [W]e conclude that government treatment of excludable [noncitizens] must implicate the Due Process Clause of the Fifth Amendment.". Rosales-Garcia v. Holland, 322 F.3d 386, 412 (6th Cir. 2003) (en banc); see also Jean v. Nelson, 472 U.S. 846, 874 (1985) (Marshall, J., dissenting) ("[T]he principle that unadmitted [noncitizens] have no constitutionally protected rights defies rationality. Under this view, the Attorney General, for example, could invoke

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legitimate immigration goals to justify a decision to stop feeding all detained [noncitizens] …. Surely, we would not condone mass starvation."). Thus, there is no question that Petitioner has the right to challenge the constitutionality of his prolonged detention under the Due Process Clause of the Fifth Amendment of the Constitution.

49. The relief Petitioner is entitled to is not limited to a bond hearing; Petitioner has a protected liberty interest in remaining out of custody *See, e.g.*, *Pinchi*, 2025 WL 2084921, at *4 ("[Petitioner's] release from ICE custody after his initial apprehension reflected a determination by the government that he was neither a flight risk or a danger to the community, and [Petitioner] has a strong interest in remaining at liberty unless he no longer meets those criteria."); Noori, 2025 WL 2800149, at *10 ("Petitioner is not an "arriving" noncitizen but one that has [been] present in our country over a year. This substantial amount of time indicates he is afforded the Fifth Amendment's guaranteed due process before removal."); Matute v. Wofford, No. 25-cv-1206-KES-SKO (HC), 2025 WL 2817795, at *5 (E.D. Cal. Oct. 3, 2025) (finding petitioner had a protected liberty interest in his release).

50. Courts across this Circuit have enforced prior habeas orders where immigration judges denied bond on an inadequate record or without applying the required constitutional safeguards. The same result is warranted here because the bond decision did not cure the due process violation this Court already identified. This Court has likewise recognized in prior rulings that where a bond proceeding fails to comply with constitutional requirements, enforcement of the Court's habeas order is appropriate.

GROUND TWO

Mandatory detention is subject to constitutional limits-Prolonged Detention

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

52. Petitioner's continued detention without a constitutionally adequate hearing violates the Fifth Amendment.

53. Petitioner has a fundamental liberty interest in freedom from physical restraint. That interest is substantial and ongoing.

54. The risk of erroneous deprivation is exceptionally high because no neutral decisionmaker has meaningfully tested whether continued detention is necessary. Absent judicial intervention, no adequate mechanism exists to determine whether detention remains justified.

55. The Government's countervailing interest is minimal. Requiring a lawful bond hearing imposes little administrative burden while ensuring the process the Constitution demands.

56. Under the Due Process Clause, prolonged detention, especially approaching or exceeding several months, requires an individualized determination of necessity.

57. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of liberty [Due Process Clause] protects." Zadvydas, 533 U.S. at 690.

58. The Government's actions have denied Petitioner due process. Therefore, his continued detention violates constitutional limits, and he must be immediately released.

59. Petitioner's claim is constitutional, not merely statutory. Although he is detained under 8 U.S.C. § 1226(a), that detention remains subject to constitutional limits. The Supreme Court has not foreclosed as-applied challenges to prolonged immigration detention, and its precedents recognize continuing judicial review where detention becomes unreasonable in duration or deficient in process.

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60. Furthermore, Petitioner's continued detention has become unreasonable because his removal is not reasonably foreseeable. Therefore, his ongoing confinement violates 8 U.S.C. § 1231(a)(6), and he must be released.

61. Petitioner challenges his prolonged detention on constitutional grounds, not statutory grounds. Although he is detained under 8 U.S.C. § 1226(a), his detention remains subject to constitutional limits. The Supreme Court has not precluded noncitizens from bringing as-applied constitutional challenges to prolonged detention. See, e.g., *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019); *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (Kennedy, J., concurring). Courts in this district have likewise recognized constitutional limits on immigration detention irrespective of the underlying detention authority.

62. This Court should so hold as well.

63. Petitioner has now been detained for more than eighteen (18) months and with no indication of when relief might be available. This prolonged and indeterminate detention is arbitrary, excessive in duration, and unconstitutional.

GROUND THREE

ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE ADMINISTRATIVE PROCEDURE ACT

Petitioner's ongoing and unreviewed detention violates his constitutional due process rights and cannot continue without an adequate bond hearing

64. The allegations in the above paragraphs are realleged and incorporated herein. Courts must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

65. The *Mathews* framework governs this case. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Applied here, it compels relief. Petitioner's liberty interest is at its apex;

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the risk of error is substantial absent a neutral bond hearing; and the Government has no legitimate interest in continuing detention without constitutionally sufficient process.

66. Each *Mathews* factor favors Petitioner's eighteen (18) months of detention without meaningful neutral review is not a temporary or incidental restraint; it is a profound deprivation of liberty that demands robust procedural protection.

67. Petitioner has a profound liberty interest. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690. Petitioner's eighteen (18) months of detention far exceeds the brief period contemplated in *Demore*, 538 U.S. at 530–31. Courts become increasingly wary of continued custody without a bond hearing once detention extends beyond a year.

68. The second *Mathews* factor weighs decisively in Petitioner's favor. Without a neutral hearing, the risk of erroneous detention is intolerably high. Petitioner has already spent eighteen (18) months in civil custody, and the value of additional safeguards is obvious: a lawful hearing would test whether detention is actually necessary and whether less restrictive alternatives would suffice.

69. A bond hearing before a neutral adjudicator is the only adequate safeguard against erroneous deprivation here. Discretionary parole is not a substitute. It does not test the necessity of detention, does not provide an adversarial hearing before a neutral decisionmaker, does not require factual findings or reasoned decision-making, and provides no meaningful opportunity for review. Due process requires more.

70. Nor can DHS's internal review satisfy due process. The detaining authority cannot serve as a neutral arbiter of the lawfulness of its own detention decision. Only a hearing before a neutral decisionmaker can protect against the constitutional error present here.

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71. Contrary to Respondent's assertions, Petitioner faces prolonged detention for an indefinite period of time pending the final adjudication of his asylum claim. This Court has recognized that "it is difficult to ascertain an endpoint to removal proceedings, but it is clear proceedings could take a substantial amount of time," and "[i]t is unknown when the IJ will decide the application for relief." Idiev v. Warden, et al., No. 1:25-CV-01030-SKO (HC), 2025 WL 3089349, at *5 (E.D. Cal. Nov. 5, 2025). Even after the IJ issues a decision, each party "has other avenues available for relief including an appeal to the BIA and a petition for review to the Ninth Circuit Court of Appeals." Id. See, e.g., Abduraimov, 2025 WL 2912307 (where the government appealed the IJ's grant of asylum and the BIA remanded back to the IJ); A.E., 2025 WL 1424382 (where the government appealed the IJ's grant of asylum, the IJ denied all relief on remand, and the noncitizen appealed to the BIA).

72. Petitioner has been in detention **for over 18 months**, and Petitioner's removal is not reasonably foreseeable, as it depends entirely on the outcome of her merits hearing and any subsequent review that may follow. Accordingly, his continued detention is arbitrary, prolonged, and constitutionally unreasonable.

73. Due to prolonged detention, the Respondent has been experiencing both physical and mental health issues. There is no indication as to how long the proceedings will continue, and, depending on the outcome of a possible appeal, the Petitioner may remain in custody for an extended period of time.

74. Because "it is not clear when detention will end, the risk of erroneous deprivation weights in favor of granting a bond hearing." A.E., 2025 WL 1424382, at *5; Doe v. Andrews, No. 1:25- CV-00506-SAB-HC, 2025 WL 2590392, *7 (E.D. Cal. Sept. 8, 2025) (noting that "[a]lthough future events are difficult to predict, the [c]ourt nevertheless finds that…possible remand to the immigration court for further factfinding or possible judicial review by the Ninth

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Circuit will be sufficiently lengthy such that [the delay] factor weighs in favor of Petitioner"), report and recommendation adopted, No. 1:25-CV-00506-KES-SAB (HC), 2025 WL 2896218 (E.D. Cal. Oct. 11, 2025); Abduraimov, 2025 WL 2912307, *8 ("appeal to BIA and potential Ninth Circuit review 'may take up to two years or longer' and 'favors granting petitioner a bond hearing') (citing Banda v. McAleenan, 385 F. Supp. 3d 1099, 1119 (W.D. Wash. 2019)). The risk of erroneous deprivation of Petitioner's liberty interest and the probably value of a bond hearing is exceptionally high. Therefore, the second Mathews factor also weighs in favor of granting Petitioner a bond hearing.

75. The third *Mathews* factor also favors Petitioner. The relevant governmental interest is not whether Respondents may detain at all, but whether they may continue detaining Petitioner without the process the Constitution requires. They may not. The administrative burden of a lawful hearing is minimal; the constitutional cost of continued unlawful detention is severe.

76. In short, prolonged detention without constitutionally adequate process cannot stand. All three *Mathews* factors point in the same direction: this Court should order immediate relief.

77. At a bond hearing, the government must bear the burden of justifying Petitioner's ongoing and prolonged detention. Where a custody hearing is warranted as a procedural safeguard against unreasonably prolonged detention, it is well established that the government bears the burden of justifying continued confinement by clear and convincing evidence. Singh v. Holder, 638 F.3d 1196, 1204 (9th Cir. 2011) ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake...are both particularly important and more substantial than mere loss of money."). See e.g. Lopez, 631 F. Supp. 3d 870, n.3 (specifically noting that that Singh provided guidance as to the procedural requirements for bond hearings

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and that the government must prove by clear and convincing evidence that a noncitizen is a flight risk. or danger to the community to justify denying bond) (internal quotations omitted); Eliazar G.C., 2025 WL 711190, *10 (E.D. Cal. Mar. 5, 2025) (stating that the Court will follow the "overwhelming majority of courts" to hold that the government must justify continued mandatory detention by clear and convincing evidence that the noncitizen is a flight risk or a danger to the community); Maksim, 2025 WL 2879328, * 6 (same); Abduraimov, 2025 WL 2912307, *11 (same); Idiev, 2025 WL 3089349, *7 (same); Tonoyan, 2025 WL 3013684, *5 (same).

78. The Ninth Circuit in Singh stressed that "it is improper to ask the individual to share equally with society the risk of error when the possible injury to the individual—deprivation of liberty— is so significant[.]" See Singh, 638 F. 3d at 1205; Black, 103 F.4th at 157-58 (observing that where "an individual's liberty is at stake, the Supreme Court has consistently used [clear and convincing] evidentiary standard for continued detention") (internal citations omitted); id. at 159 (reiterating that the government bears the burden of meeting this standard even where an individual is detained pursuant to mandatory detention). This Court should, too, apply the heavy burden on the government to justify Petitioner's continued civil detention without a bond hearing.

79. Moreover, at the evidentiary hearing, the adjudicator must consider alternatives to detention and Petitioner's financial circumstances in determining whether further detention is warranted and the conditions of his release. See, e.g., Hernandez, 872 F.3d at 994 ("If the government is setting monetary bonds to ensure appearance at future proceedings, there is no legitimate reason for it not to consider the individual's financial circumstances and alternative conditions of release.").

80. Thus, due process and Ninth Circuit precedent require that the government bear

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the burden of justifying Petitioner's ongoing and prolonged detention by clear and convincing evidence.

81. Respondents' continued detention of Petitioner without individualized review is arbitrary and violates due process.

82. Petitioner continues to suffer irreparable harm, including the deterioration of his physical and mental health. These harms cannot be remedied after the fact.

83. Petitioner is likely to succeed on the merits because prolonged detention without a constitutionally adequate bond hearing violates clearly established due process principles under Zadvydas and Singh.

84. Additionally, the prolonged and indeterminate nature of his detention now more than eighteen (18) months with no clear end renders it excessive and unconstitutional.

GROUND FOUR

FAILURE TO COMPLY WITH FEDERAL COURT ORDER

85. This Court's prior order required the Government to prove, by clear and convincing evidence, that Petitioner is either a danger or a flight risk and that no condition of release would suffice. The bond proceeding did not comply with that directive. Noncompliance with a federal court order warrants enforcement.

86. The Immigration Judge committed both legal and factual error in finding Petitioner to be a danger or flight risk. DHS did not carry its burden. The order denying bond relied on generalized assumptions and an incomplete assessment of the record, rather than the individualized proof this Court required.

87. The record does not support a finding that no condition of release could reasonably ensure Petitioner's appearance. To the contrary, Petitioner presented evidence of financial support, community ties, and less restrictive alternatives. Continued detention on this record is legally unjustified.

88. Binding precedent requires a threshold showing before the burden shifts to the respondent. See: *Budiono v. Lynch*, 837 F.3d 1042 (9th Cir. 2016); *Kumar v.*

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Holder, 728 F.3d 993 (9th Cir. 2013); *Mata-Sanguinetty v. Garland* (9th Cir. 2023). No such showing was made here.

PRAYER FOR RELIEF

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

1. Enforce its June 5, 2026, Order.
2. Order Petitioner's immediate release from custody; or, in the alternative,
3. Order a constitutionally compliant bond hearing within 7 days, at which the government bears the burden of proof by clear and convincing evidence;
4. Issue an Order to Show Cause;
5. Award attorney's fees and costs; and
6. Grant any further relief the Court deems just and proper.

DATED: July 14, 2026,

Respectfully submitted

Naira Zohrabyan
Attorney for Petitioner

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this **MOTION TO ENFORCE JUDGMENT** using the CM/ECF system.

DATED: July 14, 2026,

Respectfully submitted

Naira Zohrabyan
Attorney for Petitioner
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