

1 Maria Cordero Pereyra

2 Alien No. 

3 Eloy Detention Center

4 1705 East Hanna Road

5 Eloy, AZ 85131

6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**
9

10 Maria CORDERO-PEREYRA,

11 -Petitioner, *Pro Se*,

12 v.

13
14
15 Markwayne MULLIN, in his Official Capacity,
16 Secretary of the Department of Homeland Security,

17
18 Todd BLANCHE, in his Official Capacity,
19 Attorney General, Department of Justice,

20
21 John CANTU, in his Official Capacity,
22 Phoenix Field Office Director
23 ICE Enforcement and Removal Operations,

24
25 Christopher HOWARD, in his official Capacity,
26 Warden of Immigration Detention Facility,
27 Eloy Detention Center;

28
29 -Respondents.
30

) Case No.:

)
) INS No. A 

) Custody Status: **DETAINED**

) **CV26-03674-PHX-KML--ASB**

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

31
32 **PETITION FOR WRIT OF HABEAS CORPUS**

33 COMES NOW MARIA CORDERO-PEREYRA, as the Petitioner in this present matter,
34 appearing *Pro Se*, and hereby respectfully petitions this Honorable District Court for a Writ of
35 Habeas Corpus pursuant to 28 U.S.C. § 2241.

36 The Petition of MARIA CORDERO PEREYRA respectfully shows:

INTRODUCTION

1
2 1. Petitioner, Maria Cordero Pereyra, is a citizen of Mexico who has been held in
3 Respondents' custody since August 2024, to date.

4 2. Petitioner is currently being physically detained under the full custody of the
5 Respondents, including the Department of Homeland Security, Immigration and Customs
6 Enforcement ("DHS/ICE") at the Eloy Detention Center ("EDC") in Eloy, Arizona.
7 Respondents continue to detain Petitioner without due process for 7-months.

8 3. Petitioner applied for T-Visa, Employment Authorization Document ("EAD"), VAWA,
9 I-601A relief, and U-Visa status before the United States Citizenship and Immigration
10 Services ("USCIS").

11 4. Petitioner obtained a notice of action pertinent to her U-Visa from USCIS, having Receipt
12 No.  See attachments.

13 5. Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus and order
14 Petitioner's release within twenty ("20") days unless Respondent's schedule a hearing before
15 immigration judge where: (1) to continue detention, the government must establish by *clear*
16 *and convincing* evidence that Petitioner present a risk of flight or public danger, under the
17 correct legal standard, even after consideration of alternatives to detention that could mitigate
18 any risk that Petitioner's release would present; and (2) if the government cannot meet its
19 heavy burden, the immigration judge should order Petitioner's release on appropriate
20 conditions of supervision, taking into account Petitioner's ability to pay a reasonable bond.

21 6. Accordingly, Petitioner respectfully requests that this Court order Respondents to show
22 cause why the writ should not be granted "within three days unless for good cause additional
23 time, not exceeding twenty days, is allowed," and set a hearing on this Petition within five

1 days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering
2 Respondents to immediately release Petitioner.

3 **PARTIES**

4 7. Petitioner, Maria Cordero-Pereyra, is a native and citizen of Mexico who is detained at
5 Eloy Detention Center since August, 2024.

6 8. Respondent Markwayne MULLIN is sued in his official capacity as the Secretary of the
7 Department of Homeland Security (herein after referred to as "DHS"). In his capacity he has
8 the responsibility for administration and enforcement of the immigration laws pursuant to
9 section 402 of the Homeland Security Act of 2002, 107 Pub. L. 296, 116 Stat. 2135 (Nov. 25,
10 2002). *See Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003).

11 9. Respondent Todd BLANCHE is sued in his official capacity as the Attorney General of
12 the United States. He has responsibility for the administration and enforcement of the
13 immigration laws pursuant to 8 U.S.C. § 1103, and Immigration and Nationality Act § 103.
14 As the "INA" has not been amended to reflect the designation of the Secretary of the DHS as
15 the administrator and enforcer of the immigration laws.

16 10. Respondent Todd BLANCHE is sued in his official capacity to the extent that 8 U.S.C.
17 § 1102 gives her the authority to detain Petitioner. *See Armentero v. INS*, *supra*.

18 11. Respondent John CANTU is sued in his official capacity as ICE Field Office Director,
19 Enforcement and Removal Operations, DHS for the Phoenix Field Office, who is responsible
20 for the day-to-day operation of detaining and removing aliens in Arizona. Respondent, John
21 CANTU is the Field Office Director responsible for the Phoenix Field Office of ICE
22 Enforcement and Removal Operations, which has administrative jurisdiction over Petitioner's
23 case. He is a legal custodian of Petitioner and is named in his official capacity.

24 12. Respondent, Christopher HOWARD or the Acting Warden, Warden of Eloy Detention

Center, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

13. Respondents are the legal custodian of Petitioner and are named in their official capacity.

JURISDICTION

14. This action arises under the United States Constitution, the Immigration & Nationality Act of 1952, as amended (herein after referred to as "INA") 8 U.S.C. § 1101 *et. seq.*, and the Administrative Procedures Act (herein after referred to as "APA"), 5 U.S.C. §§ 701 *et. seq.* This Court has Habeas Corpus jurisdiction pursuant to 28 U.S.C. §§ 2241 *et. seq.*; Article 1, Clause 2 of the United States Constitution (hereinafter referred to as "Suspension Clause"); and the Common Law.

15. This Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331 and may grant relief pursuant to the Declaratory Judgement Act, 28 U.S.C. § 2201 *et. seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

16. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(c) because the Respondents are employees or officers of the United States, acting in their official capacity, and as an agency of the United States.

17. Venue is additionally proper in this Court because the Petitioner is detained in this District, and pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500(1973).

18. Venue is proper in this District because this is the district in which Petitioner is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

19. Earlier this year, Petitioner received a bond hearing pursuant to a habeas petition. The IJ

1 denied bond. Even if Petitioner appeals before the "BIA" it will most likely adopt the IJ's
2 decision and affirm the denial of bond based on lack of jurisdiction.

3 **20.** Here, Petitioner need not exhaust his administrative remedies. Exhaustion is required
4 only when Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144
5 (1992). In all other instances, "sound judicial discretion governs." *Id.* This Court should not
6 require Petitioner to exhaust his administrative remedies.

7 **21.** Petitioner is being held under mandatory detention since August 2024. Interestingly, for
8 habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.
9 *Hernandez v. Sessions*, 872, F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential
10 exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit
11 of administrative remedies would be a futile gesture, irreparable injury will result, or the
12 administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000
13 (9th Cir. 2004) (citation and quotation marks omitted)).

14 **22.** Here, Petitioner asserts that she has exhausted her administrative remedies, and any
15 further requests for bond or reconsideration would be futile. Therefore, Petitioner has
16 exhausted her administrative remedies to the extent required by law, and her only remedy is
17 by way of this judicial action.

18 **23.** As such, Petitioner is challenging the constitutionality of the procedures by which ICE
19 reviews the custody status of aliens who cannot be removed within six months, and whose
20 removal is not significantly likely to occur in the reasonably foreseeable future and where the
21 Immigration Court lacks jurisdiction.

22 **This Court Has Jurisdiction to Review the IJ's Bond Denial**

23 **24.** "A federal district court has habeas jurisdiction under 28 U.S.C. § 2241 to review [] bond
24 hearing determinations for constitutional claims and legal error." *Singh*, 638 F.3d at 1206 (9th

1 Cir. 2011). *De novo* review is proper as to constitutional and legal questions. *Id.* at 1203; *see*
2 *also Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024) (concluding that a federal court has
3 discretion to review a bond denial when a “district court...ordered the bond hearing under the
4 Due Process Clause”); *see also Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (8 U.S.C.
5 “§ 1226(e) does not preclude ‘challenges [to] the statutory framework that permits [the
6 alien’s] detention without bail.’”) (alterations in original) (quoting *Demore v. Kim*, 538 U.S.
7 510, 516 (2003)). Section 1226(e) “does not limit habeas jurisdiction over constitutional
8 claims or questions of law,” which, as the Ninth Circuit has explained, “includ[e] ‘application
9 of law to undisputed facts, sometimes referred to as mixed questions of law and fact.’” *Singh*,
10 638 F.3d at 1202 (quoting *Ramadan v. Gonzales*, 479 F.3d 646, 648 (9th Cir. 2007) (per
11 curiam)); *see also Melchor-Melchor v. Noem*, No. 5:26-cv-00766-SSS-BF (C.D. Cal. Mar. 16,
12 2026) at Dkt. No. 17 (releasing a §1226(a) detainee on the grounds that the bond hearing
13 afforded the petitioner failed to hold the government to the clear and convincing evidentiary
14 burden as to flight risk); *Mayancela v. FCI Berlin, Warden*, No. 25-cv-348-LM-TSM, 2025
15 WL 3215638, at *4 (D.N.H. Nov. 18, 2025) (“a petition for a writ of habeas corpus, filed in
16 the appropriate district court, is the only mechanism by which a noncitizen may seek judicial
17 review of an IJ’s bond decision.”); *De La Cruz Sales v. Johnson*, 323 F. Supp. 3d 1131, 1139
18 (N.D. Cal. 2017) (concluding that immigrant’s claims were reviewable by district court where
19 bond determination challenged as constitutionally flawed); *Obregon v. Sessions*, No. 17-CV-
20 01463-WHO, 2017 WL 1407889, at *4 (N.D. Cal. Apr. 20, 2017) (same); *Castaneda v. Aitken*,
21 No. 15-CV-01635-MEJ, 2015 WL 3882755, at *7-8 (N.D. Cal. June 23, 2015) (same);
22 *Espinoza v. Aitken*, No. 5:13-CV-00512 EJD, 2013 WL 1087492, at *3 (N.D. Cal. Mar. 13,
23 2013) (same); *see also Hasratyan*, 2026 WL 288909 at *3-4 (concluding that due process and
24 procedural errors in the conduct of petitioner’s bond hearing before an IJ warranted her

1 immediate release); *Judulang v. Chertoff*, 562 F. Supp. 2d 1119, 1127 (S.D. Cal. 2008) (“[t]he
 2 evidence before the IJ failed, as a matter of law, to prove flight risk or danger.”); *Ortega-
 3 Rangel v. Sessions*, 313 F. Supp. 3d 993, 1004-05 (N.D. Cal. 2018) (dangerousness finding
 4 violated due process where IJ relied solely on evidence that did not support that conclusion).

5 **25.** In making a bond determination, the IJs must sufficiently explain their reasoning to
 6 permit appellate or judicial review of their decision. *Mayancela v. FCI Berlin, Warden*, No.
 7 25-cv-348 LM-TSM, 2025 WL 3215638, at *6 (D.N.H. Nov. 18, 2025) (citing *Barnica-Lopez
 8 v. Garland*, 59 F.4th 520, 530 (1st Cir. 2023)). The IJ must give “reasoned consideration to
 9 the evidence as a whole, [make] supportable findings, and adequately explain[] [their]
 10 reasoning.” *Id.* (quoting *Pan*, 489 F.3d at 87). If the government fails to meet its burden, then
 11 bond or conditional parole must be granted. *See Gomes v. Hyde*, No. 1:25-cv-11571-JEK,
 12 2025 WL 1869299, at *2 (D. Mass. July 7, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-cv-00418-
 13 SDN, 2025 WL 2494530, at *4 (D. Me. Aug. 29, 2025). The IJ denied Petitioner’s request to
 14 be released on bond at the Bond Hearing purportedly because Petitioner is now a danger.

15 **26.** To determine whether a noncitizen is a danger to the community or a risk of flight, an IJ
 16 must weigh nine factors under applicable precedent. *See In re Guerra*, 24 I. & N. Dec. 37, 40
 17 (BIA 2006):

18 (1) whether the alien has a fixed address in the United States; (2) the alien’s
 19 length of residence in the United States; (3) the alien’s family ties in the United
 20 States, and whether they may entitle the alien to reside permanently in the
 21 United States in the future; (4) the alien’s employment history; (5) the alien’s
 22 record of appearance in court; (6) the alien’s criminal record, including the
 23 extensiveness of criminal activity, the recency of such activity, and the
 24 seriousness of the offenses; (7) the alien’s history of immigration violations; (8)
 25 any attempts by the alien to flee prosecution or otherwise escape from
 26 authorities; and (9) the alien’s manner of entry to the United States. *Id.*; *see also*
 27 *Singh*, 638 F.3d at 1206 (applying *Matter of Guerra* to § 1226(a)).

28
 29 **27.** No evidence was presented to establish that Petitioner presents a danger; rather, the IJ

1 focused on criminal history alone. The IJ disregarded Petitioner's strong community ties,
2 letters of support and her pending bonafide I-601A, VAWA, T-Visa, and U-Visa applications—
3 other than to question how strong it is. *See Tadevosyan v. Holder*, 743 F.3d 1250, 1258 (9th
4 Cir. 2014) ("Due process and [Ninth Circuit] precedent require a minimum degree of clarity
5 in dispositive reasoning and in the treatment of a properly raised argument") (citation
6 omitted).

7 **28.** The Bond Hearing was constitutionally and procedurally deficient and unsupported by
8 any evidence—let alone *clear and convincing* evidence. First, the evidentiary standard "clear
9 and convincing evidence" is not even mentioned in the entire bond hearing proceedings. The
10 *clear and convincing* standard requires "an abiding conviction" that the burden bearer's
11 contention is "highly probable." *Colorado v. New Mexico*, 467 U.S. 310, 316 (1984); *see also*,
12 *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241 (W.D.N.Y. 2019) ("If the clear and
13 convincing standard means what it says, it cannot permit detention based on mere speculation
14 that [a noncitizen's] release might possibly pose a danger."). This standard sets a "high burden
15 and must be demonstrated in fact, not 'in theory.'" *Obregon v. Sessions*, No. 17-CV-01463-
16 WHO, 2017 WL 1407889, at *7 (N.D. Cal. Apr. 20, 2017) (quoting *United States v. Patriarca*,
17 948 F.2d 789, 792 (1st Cir. 1991).

18 **29.** The clear and convincing standard is used "because it is improper to ask the individual
19 to share equally with society the risk of error when the possible injury to the individual—
20 deprivation of liberty—is so significant." *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir.
21 2011) (cleaned up). "Rather, when a fundamental right, such as individual liberty, is at stake,
22 the government must bear the lion's share of the burden." *Tijani v. Willis*, 430 F.3d 1241, 1245
23 (9th Cir. 2005) (Tashima, J., concurrence). Indeed, "[d]eprivation of liberty should be a rare
24 circumstance for non-citizens in immigration detention, reserved only for those who are a

1 threat to national security or poor bail risks.” *Obregon*, 2017 WL 1407889 at *9.

2 **30.** The evidentiary burden on Respondents at the Hearing Bond was neither *mentioned* nor
3 applied to the proceedings. This deficiency constitutes clear and prejudicial legal error.

4 **31.** Second, 8 U.S.C. § 1226(a) and its implementing regulations require that detainees be
5 afforded an “individualized” review at a bond hearing. Instead, Petitioner was categorically
6 denied bond because the IJ believes that the merits of her U-Visa, T-Visa, VAWA, I-601A
7 cases before USCIS, family ties and rehabilitation efforts, are not strong. Courts have rejected
8 findings that fail to meet the high standard of clear and convincing evidence or provide
9 meaningful *individualized* review. *See Singh*, 638 F.3d at 1205 (rejecting similarly flawed
10 reasoning that a final order of removal—a fact common to all detainees afforded *Casas* bond
11 hearings—constituted clear and convincing evidence of flight risk); *Lopez v. Doll*, No. 1:18-
12 CV-1592, 2018 WL 6696611, at *2 (M.D. Pa. Dec. 20, 2018) (“Mechanistic reliance on
13 factors that are common to all § 1231(a)(5) detainees will not suffice.”). Under *Singh*, the
14 denial of any immigration relief alone is insufficient to justify the denial of *bond*. *See also*,
15 *Castellanos-Luna v. Pompeo*, No. C19-331 RSM, 2019 WL 3027645, at *2 (W.D. Wash. July
16 11, 2019) vacated and remanded sub nom. *Castellanos-Luna v. Blinken*, No. 19-35765, 2024
17 WL 239162 (9th Cir. Jan. 18, 2024).

18 **32.** Thus, the conclusion that Petitioner is a danger was legal erroneous and violated 8 U.S.C.
19 § 1226(a) requiring an “individualized” review.

20 **33.** This Court should grant equitable relief and enjoin the future unlawful re-arrest and
21 detention of Petitioner. The outcome of a bond hearing by a compromised, politicized court
22 that ignored Petitioner’s rights under the Due Process Clause and 8 U.S.C. § 1226(a) did not
23 and could not grant Petitioner the relief that she is requesting from this Court.

24 **34.** District courts in the Ninth Circuit and across the country regularly grant detained

1 noncitizen petitioners release when the government fails to provide them with a procedurally
2 deficient bond hearing. *See, Mau v. Chertoff*, 562 F. Supp. 2d 1107, 1119 (S.D. Cal. 2008)
3 (ordering petitioner's release when "the evidence before the IJ failed, as a matter of law, to
4 prove flight risk or danger pursuant to the Court's order"); *Sales v. Johnson*, No. 16-CV-
5 01745-EDL, 2017 WL 6855827, at *7 (N.D. Cal. Sept. 20, 2017) (ordering petitioner's release
6 under appropriate conditions of supervision when IJ failed to correctly apply clear and
7 convincing standard in violation of court order); *Ramos v. Sessions*, 293 F. Supp. 3d 1021,
8 1036 (N.D. Cal. 2018), vacated and remanded sub nom. *Ramos v. Garland*, No. 18-15884,
9 2024 WL 933654 (9th Cir. Mar. 1, 2024) (granting motion to enforce and ordering release
10 under appropriate conditions of supervision when government failed to meet the clear and
11 convincing evidentiary burden); *See also L.G.M. v. Larocco*, No. 25-cv-2631 (PKC), 2025
12 WL 2173577 (E.D.N.Y. July 31, 2025) (holding bond hearing in the first instance and ordering
13 release after finding clear and convincing evidence did not justify continued detention); *Leslie*
14 *v. Holder*, 865 F. Supp. 2d 627, 633 (M.D. Pa. 2012) (same and collecting cases); *Rosales v.*
15 *Noem*, No. 5:26-cv-00112-JWH-MBK (C.D. Cal. Mar. 16, 2026) (releasing detainee and
16 granting preliminary injunction at Dkt. No. 23 at 11 following a procedurally deficient bond
17 hearing); *Melchor-Melchor v. Noem*, No. 5:26-cv-00766 SSS-BF (C.D. Cal. Mar. 16, 2026)
18 at Dkt. No. 17 (releasing a §1226(a) detainee on the grounds that the bond hearing afforded
19 the petitioner failed to hold the government to the clear and convincing evidentiary burden as
20 to flight risk).

21 35. Given the demise of the impartiality of review by IJs of bond requests, the intervention
22 of federal courts is crucial to protecting the due process rights of noncitizens. Otherwise,
23 Petitioner will be detained indefinitely without cause. *See Rodriguez v. Marin*, 909 F.3d 252,
24 256 (9th Cir. 2018) ("We have grave doubts that any statute that allows for arbitrary prolonged

1 detention without any process is constitutional.”).

2 **STATEMENT OF THE FACTS**

3 **36.** Petitioner, Mr. Maria Cordero-Pereyra, is a native, citizen of Mexico who is detained at
4 Eloy Detention Center in Eloy, Arizona since August 2024.

5 **37.** In this case, the IJ denied bond under the incorrect legal standard.

6 **38.** Petitioner seeks to remain here, in the United States (“US”), in a lawful manner with her
7 ~~nine~~ ^{SEVEN} year-old daughter. Her daughter is a US citizen who needs her mother, Maria Cordero-
8 Pereyra.

9 **39.** Petitioner applied for immigration benefits before USCIS in the form of Vawa, T-Visa,
10 EAD, I-601A, and U-Visa status. Those applications remain pending.

11 **40.** Petitioner is held under mandatory detention since August 2024.

12 **CRIMINAL HISTORY**

13 **41.** Upon information and belief, Petitioner does have an arrest and was charge in violation
14 of Arizona laws, but was release from the State’s custody by a District Judge.

15 **42.** In this case, there are several mitigating factors surrounding her offense and, under the
16 correct legal standard and analysis, this Court should find that Petitioner is entitled to a bond
17 hearing pursuant to 8 U.S.C. § 1226(a).

18 **43.** Petitioner has not been arrested for drugs or anything close to relevant here in the United
19 States. Petitioner is a responsible mother without any involvement in any illegal activity and
20 lives a law-abiding lifestyle.

21 **44.** Even so, Petitioner has shown remorse and takes full responsibility for her actions and
22 bad decision. Petitioner is prepared to comply with any court orders imposed on her.

1 45. Further, Petitioner does not exhibit any history of violent behavior or violent criminal
2 history. Conversely, she has demonstrated excellent behavior while detained and has no
3 disciplinary actions against her while detained.

4 46. Petitioner has shown commendable willingness to reintegrate to day-to-day society once
5 released. Petitioner has not been afforded a bond hearing where it comports with due process.

6 47. The following positive factors are also important to consider. Petitioner is not a threat to
7 national security, has no history of such activity and presents no danger to public safety.

8 48. Petitioner is not considered "specially dangerous" by DHS/ICE's own regulations.

9 49. Petitioner has not participated in a criminal street gang and does not have any gang related
10 conviction as defined under in 18 U.S.C. § 521(a).

11 ARGUMENT

12 50. Petitioner has resided in the United States and since then, she has continuously resided
13 in this country's interior, and has established robust familial, financial, and community ties
14 within the United States. So much that Petitioner's child is an American citizen.

15 51. Sometime in 2024, Ms. Cordero-Pereyra was detained by Immigration and Customs
16 Enforcement ("ICE") after being arrested by police officers. Subsequently, ICE encountered
17 Petitioner and the Department of Homeland Security ("DHS") launched removal proceedings
18 against her. Petitioner was subsequently transported to Eloy Detention Center, where she
19 remains detained to this day.

20 52. In this case, Respondents may argue that detention during the pendency of removal
21 proceedings is unreviewable as an extension of DHS's decision to "commence removal
22 proceedings" has explicitly been rejected by the Supreme Court as "uncritical literalism
23 leading to results that no sensible person could have intended." *Jennings*, 583 U.S. at 293–
24 94 (citation modified).

1 53. Because “[t]he government’s broad reading of § 1252(g) would lead to a result that is not
2 contemplated in the statute and that has been disavowed by the Supreme Court,” the Court
3 concludes Petitioner’s claims here do not concern discretionary actions barred from review
4 by § 1252(g). *See Ibarra Perez*, 154 F.4th at 997.

5 54. That argument is weak and unpersuasive because Petitioner “[is] not asking for review
6 of an order of removal; [is] not challenging the decision to detain [her] in the first place or to
7 seek removal as opposed to the decision to deny [her] a bond hearing[]; and [is] not even
8 challenging any part of the process by which [her] removability will be determined . . . §
9 1252(b)(9) does not present a jurisdictional bar.” *Nielsen v. Preap*, 586 U.S. 392, 402 (2019)
10 (quoting *Jennings*, 585 U.S. at 294–95) (alterations in original). In *Jennings*, the Supreme
11 Court specifically rejected the government’s broad reading of “arising from” under §
12 1252(b)(9)—which Respondents continue to assert here—as “extreme,” because by only
13 allowing challenges to detention authority through an appeal of a final order of removal
14 (i.e., after the period of detention under § 1225(b)(2) or §§ 1226(a) and (c) has ended), that
15 reading would “make claims of prolonged detention effectively unreviewable.” *Jennings*, 585
16 U.S. at 293 (“By the time a final order of removal was eventually entered, the allegedly
17 excessive detention would have already taken place. And of course, it is possible that no such
18 order would ever be entered in a particular case, depriving that detainee of any meaningful
19 chance for judicial review.”).

20 55. Moreover, a reading of § 1252 that would “completely immunize[] [DHS’s] practices
21 and procedures [regarding detention] from due process challenges” cannot be
22 sustained. *Walters*, 145 F.3d at 1052. As such, because Petitioner’s claims regarding the
23 lawfulness of her detention during the pendency of removal proceedings are “independent of

1 or collateral to the removal process,” § 1252(b)(9) does not bar them. *See Ibarra-Perez*, 154
2 F.4th at 996–97.

3 **56.** “It is well established that the Fifth Amendment entitles aliens to due process of law in
4 deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*,
5 507 U.S. 292, 306 (1993)).

6 **57.** “Freedom from imprisonment—from government custody, detention, or other forms of
7 physical restraint—lies at the heart of liberty” that the Due Process Clause protects. *Zadvydas*
8 *v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty
9 under the Due Process Clause included protection against unlawful or arbitrary personal
10 restraint or detention.”).

11 **58.** This fundamental due process protection applies to all noncitizens, including both
12 removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“both
13 removable and inadmissible aliens are entitled to be free from detention that is arbitrary or
14 capricious”).

15 **59.** Due process therefore requires “adequate procedural protections” to ensure that the
16 government’s asserted justification for physical confinement “outweighs the individual’s
17 constitutionally protected interest in avoiding physical restraint.” *Id.* at 690. Civil
18 commitment for *any* purpose constitutes a significant deprivation of liberty. *Addington v.*
19 *Texas*, 441 U.S. 418, 425 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). In the immigration context,
20 the Supreme Court has recognized only two valid purposes for civil detention—to mitigate
21 the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

22 **60.** Following *Zadvydas* and *Demore*, every circuit court of appeals to confront the issue had
23 found either the immigration statutes or due process require a hearing for noncitizens subject
24 to unreasonably prolonged detention pending removal proceedings. *See, Velasco Lopez v.*

1 *Decker*, 978 F.3d 842 (2d Cir. 2020) (8 U.S.C. § 1226(a)); *Reid v. Donelan*, 819 F.3d 486 (1st
 2 Cir. 2016) (8 U.S.C. § 1226(c)); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199 (11th Cir. 2016)
 3 (detention under 8 U.S.C. § 1226(c)); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015) (8
 4 U.S.C. § 1226(c)); *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015) (8
 5 U.S.C. § 1226(c) and 8 U.S.C. § 1225(b)); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir.
 6 2011) (8 U.S.C. § 1226(c)); *Diouf v. Holder (Diouf II)*, 634 F.3d 1081 (8 U.S.C. § 1231(a));
 7 *Ly v. Hanse*, 351 F.3d 263 (6th Cir. 2003) (8 U.S.C. § 1226(c)) (requiring release when
 8 mandatory detention exceeds a reasonable period of time).

9 **61.** While the Supreme Court upheld the mandatory detention of a noncitizen under Section
 10 1226(c) in *Demore*, it did so based upon the petitioner's concession of deportability and the
 11 Court's understanding that detentions under Section 1226(c) are typically "brief". *Demore*,
 12 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a prolonged period or is
 13 pursuing a substantial defense to removal or claim to relief, due process requires an
 14 individualized determination that such a significant deprivation of liberty is warranted. *Id.* at
 15 532 (Kennedy, J., concurring) ("individualized determination as to his risk of flight and
 16 dangerousness" may be warranted "if the continued detention became unreasonable or
 17 unjustified"). *See also, Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the
 18 "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S.
 19 245, 249-50 (1972) ("lesser safeguards may be appropriate" for "short term confinement");
 20 *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (in Eighth Amendment context, "the length of
 21 confinement cannot be ignored in deciding whether [a] confinement meets constitutional
 22 standards").

23 **62.** Detention without a proper bond hearing is unconstitutional. *See Demore*, 538 U.S. at
 24 529-30 (upholding only "brief" detention under Section 1226(c), which last "roughly a month

1 and a half in the vast majority of cases in which it is invoked, and about five months in the
2 minority of cases in which the alien chooses to appeal”); *Zadvydas*, 533 U.S. at 701
3 (“Congress previously doubted the constitutionality of detention for more than six months”).
4 Courts have likewise recognized the need for bright line constitutional rules in other areas of
5 law. *See Maryland v. Shatzer*, 559, U.S. 98, 110 (2010) (14 days for re-interrogation following
6 invocation of Miranda rights); *Cty. Of Riverside v. McLaughlin*, 500 U.S. 44, 55-56 (1991)
7 (48 hours for probable cause hearing). At a minimum, due process requires a bond hearing.
8 *See Diop*, 656 F.3d at 234. Courts that apply a reasonableness test have considered three main
9 factors in determining whether detention is reasonableness.

10 63. First, courts have evaluated whether the noncitizen has raised a “good faith” challenge to
11 removal—that is, the challenge is “legitimately raised” and presents “real issues”. *Chavez-*
12 *Alvarez v. Wardern York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Petitioner’s detention
13 without an impartial and fair bond hearing that guarantees fundamental Due Process of Law.
14 Any delay has occurred as a result of litigating favorable and substantive issues affecting
15 removal.

16 64. Second, reasonableness is a “function of the length of the detention,” with detention
17 presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *accord Sopo*, 825
18 F.3d at 1217-18.

19 65. Third, courts have considered the likelihood that detention will continue pending future
20 proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after nine
21 months of detention, when the parties could “have reasonably predicted that *Chavez-Alvarez’s*
22 appeal would take a substantial amount of time, making his already lengthy detention
23 considerably longer”); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

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

6 67. To justify immigration detention, the government must bear the burden of proof by *clear*
7 *and convincing* evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*,
8 638 F.3d 1196, 1206 (9th Cir. 2011).

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

17 69. The Ninth Circuit Court of Appeals confirmed that *Jennings v. Rodriguez*, 138 S. Ct. 830
18 (2018) did not invalidate the holding in *Singh* and *Rodriguez v. Robbins* (Rodriguez III), 804
19 F.3d 1060 (9th Cir. 2015), which required that the Government justify a non-citizen's
20 detention by *clear and convincing* evidence. *Aleman Gonzalez v. Barr*, --- F.3d ---, 2020 WL
21 1684034 (9th Cir. Apr. 7, 2020).

22 70. Since *Jennings*, numerous district courts in this circuit and others have concluded that
23 due process requires the government to prove by *clear and convincing* evidence that a non-
24 citizen is a flight risk or a danger to the community to justify denial of bond. E.g., *Ixchop*

1 *Perez v. McAleenan*, --- F. Supp. 3d ---, 2020 WL 1181492, at *4 (N.D. Cal. Jan. 23, 2020)
 2 (rejecting the government's "attempt to cabin *Singh* to only apply to *Casas* hearings" as
 3 "illogical" since such interpretation would "create a system in which a detained noncitizen
 4 bears the burden at their initial bond hearing, but the burden then shifts at a *Casas* hearing");
 5 *Singh v. Barr* ("Singh v. Barr"), 400 F. Supp. 3d 1005, 1017-18 (S.D. Cal. 2019) ("Because
 6 *Jennings* expressly addressed itself to the mandates of the INA, and not the Constitution, the
 7 procedural due process holding[] in *Singh* . . . still stand[s]."); *Lopez Reyes v. Bonnar*, 362
 8 F. Supp. 3d 762, 775 (N.D. Cal. 2019); *Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024,
 9 1033 n.8 (W.D. Was. 2019); *Cortez v. Sessions*, 318 F. Supp. 3d 1134 (N.D. Cal. 2018),
 10 appeal dismissed, 2018 WL 4173027 (9th Cir. July 25, 2018); *Ramos v. Sessions*, 293 F. Supp.
 11 3d 1021, 1029-30 (N.D. Cal. 2018).; *Diaz-Ceja v. McAleenan*, No. 19-CV-00824-NYW, 2019
 12 WL 2774211, at *11 (D. Colo. July 2, 2019); *Darko v. Sessions*, 342 F. Supp. 3d 429 (S.D.
 13 N.Y. 2018); *Linares Martinez v. Decker*, 2018 WL 5023946, at *4 (S.D. N.Y. Oct. 17, 2018);
 14 *Sajous v. Decker*, No. 28 Civ. 2447 (AJN), 208 WL 2357266, at *12 (S.D. N.Y. May 23,
 15 2018); *Hernandez v. Decker*, No. 18 Civ. 5026 (ALC), 2018 WL 3579108, at *10 (S.D. N.Y.
 16 July 25, 2018); *Frederic v. Edwards*, No. 18 Civ. 5540 (AT), Docket No. 13 (S.D. N.Y. July
 17 19, 2018); *Figueroa v. McDonald*, No. 18-CV-10097 (PBS), --- F. Supp. 3d ---, --- 2018 WL
 18 2209217, at *5 (D. Mass. May 17, 2018); *Pensamiento*, 315 F. Supp. 3d 684, 692 (D. Mass.
 19 2018); *Portillo v. Hott*, 322 F. Supp. 3d 698, 709 n.9 (E.D. Va. 2018).

20 71. Further, honorable district court judges in this Court have concluded that fundamental
 21 due process requires the government at any Bond proceedings to prove by the legal standard
 22 of *clear and convincing* evidence that a noncitizen is a *flight risk or danger to the community*
 23 to justify the denial of bond.

1 72. In *Sinsaeng v. Lynch*, the District of Arizona, applying *Singh v. Holder*, recognized that
2 “the clear and convincing evidence standard applies at a *Casas* bond hearing in determining
3 whether the continued detention of an alien is justified.” More recently, in *Arido-Sorro v.*
4 *Garland*, this Court recommended granting habeas relief and ordering an individualized bond
5 hearing at which “Respondents must establish at that hearing by clear and convincing
6 evidence that Petitioner is a flight risk or a danger to the community in order to continue his
7 detention.”

8 73. These decisions implement binding Ninth Circuit precedent holding that, in prolonged-
9 detention cases, the Government bears the burden to justify detention by clear and convincing
10 evidence of flight risk or dangerousness. *See Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th
11 Cir. 2011); *Flores Tejada v. Godfrey*, 954 F.3d 1245, 1249 (9th Cir. 2020).

12 74. To conform to the requirements of due process, such a hearing must take place before an
13 independent and impartial adjudicator. *Id.* at 334-35. The requirement that the government
14 bear the burden of proof by *clear and convincing* evidence is also supported by application of
15 the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

16 75. Again, prolonged incarceration deprives noncitizens of a “profound” liberty interest. *See*
17 *Diouf II*, 634 F.3d at 1091–92 (9th Cir. 2011). And, the risk of error is heavily great where
18 the government is represented by trained and qualified attorneys and detained noncitizens are
19 often unrepresented. *See Santosky v. Kramer*, 455 U.S. 745, 763 (1982) (requiring clear and
20 convincing evidence at parental termination proceedings because “numerous factors combine
21 to magnify the risk of erroneous factfinding” including that “parents subject to termination
22 proceedings are often poor, uneducated, or members of minority groups” and “[t]he State’s
23 attorney usually will be expert on the issues contested”). Even more, detainees, like Petitioner

1 are incarcerated in prison-like conditions that severely hamper their ability to obtain legal
2 assistance, gather evidence, and prepare for a bond hearing. *See, infra*.

3 76. Additionally, placing the burden on the government imposes minimal cost or
4 inconvenience, as the government has access to the noncitizen's immigration records and
5 other information that it can use to make its case for continued detention.

6 77. Due process also requires consideration of non-punitive alternatives to detention. The
7 primary purpose of immigration detention is to ensure a noncitizen's appearance during
8 removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this
9 purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell*
10 *v. Wolfish*, 441 U.S. 520, 538 (1979).

11 78. While detention pending removal proceedings is constitutionally permissible, it must
12 comport with due process. Among other requirements, the government must justify prolonged
13 detention with clear and convincing evidence that the noncitizen presents a current flight risk
14 or danger to the community. This Court should conclude that *dangerousness cannot be based*
15 *on criminal history alone*; the severity and recency of the criminal conduct must be taken into
16 account. The courts also must consider *changes in circumstances that would make recidivism*
17 *less likely*.

18 79. Even if Respondents argue that Petitioner is considered to be dangerous, that argument
19 is unpersuasive and weak. The Supreme Court has "uphold preventive detention based on
20 dangerousness only when limited to especially dangerous individuals and subject to strong
21 procedural protection". *Lopez Reyes*, 362 F. Supp. 3d at 776 (quoting *Zadvydas*, 533 U.S. at
22 691). Here, Petitioner's criminal charges against her are too trivial and it is not sufficient
23 enough to portray her as a hardened criminal. The record reflects that even with a criminal
24 record, it does not establish that she is a habitual criminal.

1 80. Petitioner does recognize her wrongs and regrets what occurred and has been strongly
2 attempting to make amends. Any argument that “*danger*” to the community is established by
3 the facts of this case is clearly erroneous, and by any legal standard is devoid of logic, reason,
4 and facts to support such a conclusion.

5 81. In this case, the Respondents may seek to characterize Petitioner’s challenge as purely
6 discretionary. As the Honorable U.S. District Court in *Griselda Negrete Vargas, supra*, found:
7 “The Ninth Circuit has explained that *Casas-Castrillon* and *Guerra* contemplate that criminal
8 history alone may be insufficient to justify detention” (emphasis added). *Singh*, 638 F.3d at
9 1260. “The *Guerra* factor most pertinent to assessing dangerousness’ is the detainee’s ‘criminal
10 record, including the *extensiveness* of criminal activity, the *recency* of such activity, and the
11 *seriousness* of the offenses”. *Id.* (citing *Guerra*, 20 I. & N. Dec. at 40) (emphasis added).

12 “Indeed, not all criminal convictions conclusively establish that an alien
13 presents a danger to the community, even where the crimes are serious
14 enough to render the alien removable. *Cf. Foucha*, 504 U.S. at 82-83,
15 112 S. Ct. 1780 (requiring a showing of dangerousness beyond that “of
16 any convicted criminal” to justify civil detention of the criminally
17 insane). For example, some orders of removal may rest on convictions
18 for relatively minor, non-violent offenses such as petty theft and
19 receiving stolen property. Moreover, a conviction could have occurred
20 years ago, and the alien could well have led an entirely law-abiding life
21 since then. In such cases, denial of bond on the basis of criminal history
22 alone may not be warranted”. *Id.* at 1206.

23
24 82. If the heavy burden of proof is placed on the Respondents, rather than on the Petitioner,
25 it reveals that Petitioner does not pose a danger to persons or property. Petitioner has no
26 controlled substance trafficking offenses or anything close to relevant nor does she have an
27 extensive criminal history here in the United States. Petitioner does have criminal offenses;
28 however, those prior offenses are too trivial and do not fall under the “particularly serious
29 crimes” spectrum nor do they fall under the “serious and violent crimes” factors to support
30 that she presents public danger.

1 83. Even while in custody, Petitioner lacks disciplinary actions against her. Petitioner is not
2 a threat to national security, has no history of such activity and presents no current danger to
3 public safety. Petitioner has not been convicted of any controlled substance trafficking
4 offenses, involved in any terrorist activities or anything close to relevant.

5 84. Petitioner does not have a lengthy criminal record and is not a habitual criminal and
6 points out that the Respondents are silent on this issue. Petitioner states that her offenses are
7 too trivial to demonstrate that she is a danger to the community. Petitioner's past conduct,
8 though reprehensible, simply does not warrant the harsh sanction available under the
9 mandatory detention statute. Surely, the adjudication of denying relief in this case serves
10 neither the purposes of the INA statute nor the interests of justice

11 85. In this case, Petitioner has a strong support system in the United States to ensure she
12 reintegrates into her community successfully. "The right to life is fundamental and is protected
13 against unreasonable or unlawful taking by the procedural due process safeguards of the fifth
14 and fourteenth amendments." *Landrum v. Moats*, 576 F.2d 1320, 1325 (8th Cir. 2021).

15 86. This Court should hold that civil immigration detention violates due process if it is not
16 reasonably related to its statutory purpose. *See id.* (citing *Jackson v. Indiana*, 406 U.S. 715,
17 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid
18 purposes for civil detention: to mitigate the risk of flight and prevent danger to the community.
19 *Id.* Petitioner's prolonged civil detention, which is likely to continue indefinitely, is no longer
20 reasonably related to the primary statutory purpose of ensuring imminent removal. Thus,
21 Petitioner's detention violates her right to due process.

22 87. To the extent ICE may argue that it can continue indefinitely detaining Petitioner on the
23 grounds that she is "specially dangerous", ICE has not even attempted to comply with its own
24 extensive procedures to obtain such a classification. *See* 8 C.F.R. § 241.14(f)-(g), (i). *See also*,

1 *Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020)
2 (granting habeas relief to petitioner detained for seventeen months after Iranian officials failed
3 to respond to a travel document request for more than seven months).

4 88. This is a case where ICE has not obtained a certification of special dangerousness from
5 the Commissioner, it has not ordered that Petitioner undergo a medical examination, and it
6 has not initiated a reasonable cause proceeding in Immigration Court.

7 89. In fact, ICE's own regulations provide that without proving "special dangerousness" by
8 *clear and convincing evidence* before an IJ, ICE does not have the ability to indefinitely detain
9 an alien who has no significant likelihood of being removed within a six-month period. In
10 short, ICE has not followed its own rules.

11 90. Petitioner's indefinite detention violates the detention statute and is unconstitutional
12 because the Supreme Court has held that a noncitizen cannot be detained indefinitely in a
13 removable but-not-removable status; the most common situation occurs when no country can
14 be found to accept the noncitizen. *Zadvydas*, 533 U.S. 678.

15 91. The Ninth Circuit has recognized that "prolonged detention without adequate procedural
16 protections would raise serious constitutional concerns." *Rodriguez v. Robbins*, 804 F.3d
17 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct. 830 (2018). The deprivation
18 of liberty is the quintessential form of irreparable harm.

19 92. Courts have recognized that the loss of family unity and the resulting emotional trauma
20 constitute irreparable harm warranting judicial intervention. *See Leiva-Perez v. Holder*, 640
21 F.3d 962, 968 (9th Cir. 2011) (per curiam) (irreparable harm established where removal or
22 detention would cause separation from family and loss of stability); *Ramos v. Nielsen*, 321 F.
23 Supp. 3d 1083, 1114 (N.D. Cal. 2018) (holding that family separation and loss of parental
24 support amount to irreparable injury).

1 93. In turn, Due Process likewise requires consideration of a noncitizen's ability to pay a
2 bond. "Detention of an indigent 'for inability to post money bail' is impermissible if the
3 individual's 'appearance at trial could reasonably be assured by one of the alternate forms of
4 release.'" *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en
5 banc). It follows that—in determining the appropriate conditions of release for immigration
6 detainees—due process requires "consideration of financial circumstances and alternative
7 conditions of release" to prevent against detention based on poverty. *Id.*

8 94. First, with respect to the INA challenge, the Court should find that Petitioner—a long-
9 term individual residing in the US who was detained in its interior after developing significant
10 ties to this country through years of continuous residence—is entitled to a bond hearing under
11 § 1226(a) and its implementing regulations.

12 95. Second, the Court should find that Petitioner has established a likelihood of success on
13 the merits of his due process challenge to her ongoing detention without a bond hearing. The
14 procedural due process factors under *Mathews v. Eldridge*, 424 U.S. 319 (1976), weigh
15 heavily in favor of Petitioner because (1) the private interest affected is the fundamental
16 liberty interest in being free from imprisonment; (2) the risk of erroneous deprivation is
17 extraordinarily high where federal immigration officials have the sole, unguided, and
18 unreviewable discretion to detain Petitioner; and (3) the government's interest in enforcing
19 immigration law is served by an individualized determination by an immigration court, based
20 on a review of evidence presented by the government and the noncitizen, as to whether an
21 individual is dangerous or at risk of fleeing removal proceedings under existing, well-
22 established procedures. *See id.* 334–35; *see also Rodriguez Diaz v. Garland*, 53 F.4th 1189,
23 1206 (9th Cir. 2022) (collecting cases and applying the *Mathews* test to a constitutional
24 challenge to detention under 8 U.S.C. § 1226(a)). Moreover, the government has no interest

1 in the unjustified deprivation of a noncitizen's liberty. *See Zadvydas v. Davis*, 533 U.S. 678,
2 690 (2001) (civil immigration detention is permissible only to prevent flight or to protect
3 against danger to the community).

4 96. Finally, because Respondents have asserted no individualized justification—let alone a
5 special or compelling justification—to continue to deprive Petitioner of her physical liberty,
6 this Court should find that Petitioner is currently detained in violation of her substantive due
7 process rights. *See Escobar Salgado*, 2025 WL 3205356, at *25.

8 **IN THE ALTERNATIVE, A PRELIMINARY INJUNCTION RELIEF IS**

9 **WARRANTED TO PREVENT IRREPARABLE HARM**

10 97. Petitioner respectfully requests that this Court issue a preliminary injunction ordering her
11 immediate release from ICE custody or, in the alternative, a constitutionally adequate bond
12 hearing.

13 98. Injunctive relief is appropriate where the petitioner demonstrates: (1) a likelihood of
14 success on the merits, (2) irreparable harm absent relief, (3) that the balance of equities tips
15 in h[er] favor, and (4) that the public interest supports relief. *Winter v. Nat. Res. Def. Council*,
16 555 U.S. 7, 20 (2008); *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir.
17 2011) (a serious question going to the merits plus a balance of hardships that tips sharply
18 toward the petitioner also supports injunctive relief).

19 **A. Likelihood of Success on the Merits**

20 99. Petitioner has demonstrated a high likelihood of success. Her detention without a
21 constitutionally adequate bond hearing violates the Fifth Amendment's Due Process Clause.
22 *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a reasonable
23 relation to its purpose and cannot be indefinite); *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th
24 Cir. 2011) (government bears the burden of proving danger or flight risk by clear and

1 convincing evidence in prolonged detention cases); *Hernandez v. Sessions*, 872 F.3d 976, 991
2 (9th Cir. 2017) (requiring individualized bond determinations and consideration of ability to
3 pay). Because DHS has failed to justify Petitioner's continued indefinite detention under the
4 appropriate legal standard, success on the merits is likely.

5 **B. Irreparable Harm**

6 **100.** Petitioner suffers ongoing irreparable harm every day that her liberty is restrained
7 in violation of due process. Prolonged detention imposes significant psychological and
8 physical hardship and impedes Petitioner's ability to meaningfully participate in her defense.
9 The Ninth Circuit has recognized that "prolonged detention without adequate procedural
10 protections would raise serious constitutional concerns." *Rodriguez v. Robbins*, 804 F.3d
11 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct. 830 (2018). The deprivation
12 of liberty is the quintessential form of irreparable harm.

13 **C. Balance of Equities**

14 **101.** The balance of equities strongly favors Petitioner's release. The government's
15 interest in ensuring attendance at removal proceedings can be met through less restrictive
16 means, such as bond or supervision, particularly where Petitioner has taken steps of
17 rehabilitation and has no record of absconding. *See Valdez-Jimenez v. Eighth Judicial Dist.*
18 *Ct.*, 460 P.3d 976, 992 (Nev. 2020) (holding that due process requires individualized findings
19 before continued pretrial detention).

20 **102.** Continued detention imposes significant hardship on Petitioner and her ⁷year-
21 old daughter, while release under reasonable conditions poses no harm to the government.

22 **D. Public Interest**

23 **103.** The public interest is always served by upholding constitutional rights and
24 preventing unlawful detention. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)

1 (recognizing that enforcement of constitutional rights is in the public interest).

2 **104.** As another district Court recently concluded, “[t]he public has a strong interest in
3 upholding procedural protections against unlawful detention and the Ninth Circuit has
4 recognized that the costs of the public of immigration detention are staggering.” *Diaz*, 2025
5 WL 1676854, at *3 (citing *Jorge M. F.*, 2021 WL 783561, at *3. *See also, Diaz v. Kaiser*, No.
6 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025

7 **105.** Prompt judicial intervention will preserve the integrity of removal proceedings
8 and reinforce the rule of law. Public interests favor Petitioner’s release as DHS has yet to
9 deport her to Mexico.

10 **106.** Petitioner was arrested through “targeted operations”. Then was denied bond on
11 the basis that the IJ lacked jurisdiction interview, therefore denying a full and fair hearing to
12 challenge her detention. In sum, Respondents have stripped Petitioner of an opportunity for a
13 custody redetermination hearing where it comports with due process of law. Such a process
14 fails to meet the minimum requirements of due process. *See Rodriguez v. Robbins*, 804 F.3d
15 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct. 830 (2018) (requiring
16 individualized bond hearings with meaningful procedural protections for prolonged
17 detention).

18 **107.** The lack of an effective administrative remedy underscores the need for this
19 Court’s intervention through habeas corpus. As the Supreme Court reaffirmed in *Boumediene*
20 *v. Bush*, 553 U.S. 723, 745 (2008), the Great Writ is a critical safeguard against unlawful
21 executive detention and ensures that no person is deprived of liberty without judicial review.

22 **108.** Administrative detention must be rationally related to its purpose—to secure
23 attendance at proceedings or protect the public—and cannot be punitive or arbitrary. *Zadvydas*
24 *v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must bear a reasonable relation to its

1 purpose); *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must be based on a
2 reasoned explanation and not arbitrary decision-making). Respondents have denied her the
3 opportunity to challenge her detention offering no mechanism to appeal. This lack of
4 procedural safeguards renders the review process constitutionally deficient. The writ of
5 habeas corpus serves as a critical check on executive overreach and unlawful deprivation of
6 liberty. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008) (habeas corpus is a fundamental
7 safeguard against arbitrary detention).

8 **109.** The Ninth Circuit has likewise emphasized that due process requires a neutral
9 decision-maker and individualized determinations supported by clear and convincing
10 evidence. *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Hernandez v. Sessions*,
11 872 F.3d 976, 991 (9th Cir. 2017).

12 **110.** Respondents' decision to detain Petitioner indefinitely constitutes arbitrary and
13 capricious enforcement actions that violates both the Fifth Amendment's guarantee of due
14 process and the Administrative Procedure Act's requirement of reasoned decision-making.
15 *See Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must not be arbitrary or
16 capricious but must rest on a reasoned explanation).

17 **111.** Targeting her for detention under these circumstances amounts to impermissible
18 "cherry-picking" enforcement—a practice where the agency singles out compliant
19 individuals while taking no action against others, without articulating any rational basis for
20 the disparate treatment. Such selective enforcement is constitutionally suspect and
21 undermines the integrity of the immigration system and due process of law.

22 **112.** The Supreme Court has emphasized that agency actions must be guided by
23 intelligible principles and consistent application of law. *Encino Motorcars, LLC v. Navarro*,
24 579 U.S. 211, 221 (2016) (agency decisions must reflect reasoned analysis and avoid arbitrary

1 departures from settled policy). Respondents' decision here reflects no individualized
2 assessment of danger or flight risk, as required by due process. *See Singh v. Holder*, 638 F.3d
3 1196, 1203–04 (9th Cir. 2011) (government bears burden of proving danger or flight risk by
4 clear and convincing evidence).

5 **113.** Additionally, the Court should also find that Petitioner has clearly established that
6 she and her ~~9~~⁷-year-old daughter face imminent irreparable injury in the absence of preliminary
7 injunctive relief. "It is well established that the deprivation of constitutional rights
8 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th
9 Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Hence, "[w]hen an alleged
10 deprivation of a constitutional right is involved, most courts hold no further showing of
11 irreparable injury is necessary." *Vasquez Perdomo v. Noem*, 148 F.4th 656, 689 (9th Cir. 2025)
12 (citation omitted).

13 **114.** Thus, Petitioner is being detained in violation of his constitutional due process
14 rights, it follows "inexorably" that Petitioner has carried her burden as to irreparable harm.
15 *See Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Likewise, the minimal, if not
16 nonexistent, burden on the government of adhering to its own established procedures under §
17 1226(a)—as compared to preventable human suffering, e.g., financial and emotional burdens
18 on Petitioner, her family, and her communities— in addition to the fundamental harm of
19 arbitrary executive detention, demonstrates that the balance of the equities and public interest
20 tip sharply in Petitioner's favor. *See id.* at 995–96 ("[T]he public interest benefits from an
21 injunction that ensures that individuals are not deprived of their liberty and held in
22 immigration detention because of . . . likely unconstitutional process.").

23 **115.** Turning to the scope of relief, injunctive relief "should be no more burdensome
24 to the [Respondents] than necessary to provide complete relief to the [Petitioner] before the

1 court.” *eBay Sanctuary Covenant v. Biden*, 993 F.3d 640, 680 (9th Cir. 2021) (citation
2 modified). “Where relief 4 5 6 7 can be structured on an individual basis, it must be narrowly
3 tailored to remedy the specific harm shown[.]” *Id.* (citation omitted).

4 **116.** The federal habeas corpus statute “does not limit the relief that may be granted to
5 discharge of the applicant from physical custody.” *Carafas v. LaVallee*, 391 U.S. 234, 238
6 (1968). “Its mandate is broad with respect to the relief that may be granted.” *Id.*

7 **117.** “It provides that ‘[t]he court shall . . . dispose of the matter as law and justice
8 require.’” *Id.* (quoting 28 U.S.C. § 2243). Here, this Court should find that the specific harm
9 suffered by Petitioner and her US citizen daughter—continued detention in the absence of a
10 bond hearing pursuant to the government’s incorrect statutory interpretation and unlawful
11 policy—is remedied by ordering Respondents release or to provide Petitioner with a bond
12 hearing pursuant to § 1226(a).

13 **118.** Given the due process rights at stake, if a bond hearing is not provided promptly
14 within a reasonable time frame, this Court should order Petitioner’s immediate release unless,
15 and until, it is determined that her detention is warranted under 8 U.S.C. § 1226(a) and its
16 implementing regulations.

17 **119.** Finally, with respect to bond, Federal Rule of Civil Procedure 65(c) allows a court
18 to “issue a preliminary injunction . . . only if the movant gives security in an amount that the
19 court considers proper to pay the costs and damages sustained by any party found to have
20 been wrongfully enjoined or restrained.” FED. R. CIV. P. 65(c). “Despite the seemingly
21 mandatory language, ‘Rule 65(c) invests the district court with discretion as to the amount of
22 security required, if any.’” *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) (quoting
23 *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003)). “In particular, ‘the district court
24 may dispense with the filing of a bond when it concludes there is no realistic likelihood of

1 harm to the defendant from enjoining his or her conduct.” *Id.* (citation modified) (quoting
2 *Jorgensen*, 320 F.3d at 919). Respondents cannot rebut that conducting a bond hearing will
3 be costly. Therefore, this Court should decline to impose bond beyond the amount an IJ may
4 set under § 1226(a).

5 **120.** Indeed, not all criminal convictions conclusively establish that a non-citizen
6 presents a danger to the community, even where the crimes are serious enough to render the
7 alien removable. *Cf. Foucha*, 504 U.S. at 82-83, 112 S. Ct. 1780 (requiring a showing of
8 dangerousness beyond that “of any convicted criminal” to justify civil detention of the
9 criminally insane). Thus, denial of bond on the basis of criminal history alone is not warranted.
10 *Id.* at 1206.

11 **121.** Without a Preliminary Injunction relief, Petitioner will continue to suffer
12 immense ongoing irreparable injury. Indeed, she faces such injury every day she remains in
13 detention in violation of his Fifth Amendment rights and statutory. “It is well established that
14 the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’”
15 *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017) (citing *Melendres v. Arpaio*, 695
16 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is
17 involved, most courts hold that no further showing of irreparable injury is necessary.”
18 *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (internal quotation marks
19 omitted); *see Hernandez*, 872 F.3d at 994 (holding that plaintiffs were irreparably harmed “by
20 virtue of the fact that they [we]re likely to be unconstitutionally detained for an indeterminate
21 period of time”); *see also, e.g., Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018)
22 (recognizing that “[a]ny amount of actual jail time is significant, and has exceptionally severe
23 consequences for the incarcerated individual.”).

24 **122.** Petitioner’s efforts to seek her release in immigration court have proven to be

1 futile. In any event, there is no requirement that Petitioner exhaust remedies in immigration
 2 court because no other forum exists in which Petitioner can raise the constitutional claims
 3 herein. In ordering the release of the petitioner/detainee in *Hasratyan v. Bondi et al.*, 2026 WL
 4 288909, Case No. 5:26 cv-00210-MCS-ADS (C.D. Cal. Feb. 2, 2026), the court explained:

5 the process Petitioner received at her January 2026 bond
 6 hearing before the immigration judge was deficient. Any
 7 remedy to that deficiency by way of review by the Board of
 8 Immigration Appeals is doubtlessly months away.
 9 Accordingly, the post-detention process Petitioner received
 10 and will receive is no substitute for the predetention process
 11 she was owed. *Id.* at *4.

12
 13 123. Similar to Petitioner, the petitioner in *Hasratyan* was afforded a “deficient” bond
 14 hearing and was thus ordered released “from detention forthwith.” *Id.* at *5.

15 124. In considering this case, Petitioner urges the Court to recognize that it alone is the
 16 guardian of due process and the U.S. Constitution.¹ These are not normal times in the United
 17 States—for the rule of law and U.S. Constitution—and a Department of Justice that places
 18 loyalty to the Executive Branch above the U.S. Constitution—even threatening the
 19 independence of the U.S. judiciary.²

20 125. The Honorable Fred Biery, in his scathing opinion in *Conejo Arias v. Noem*, No.
 21 5:26-cv 00415-FB (W.D. Tex. Jan. 31, 2026) offered a “[c]ivics lesson to the government:
 22 Administrative warrants issued by the executive branch to itself do not pass probable cause

¹ Should this Court seek to independently assess the neutrality of IJs since they received EOIR guidance to ignore the orders of federal court judges, Respondents should provide evidence of the rate of bond approval by the IJ that reviewed Petitioner’s bond request ordered by this court over the past three months. It may very well be zero.

² See Nate Raymond and Andrew Goudswaard, Reuters, February 10, 2026, *Trump's DOJ seeks examples of 'egregious' judges for Congress to review*, <https://www.reuters.com/legal/government/trumps-doj-seeks-examples-egregious-judges-congress-review-2026-02-10/>

1 muster. That is called the fox guarding the henhouse. The Constitution requires an independent
2 judicial officer.” *Conejo Arias v. Noem*, at 2. The same reasoning applies here: expecting IJs
3 whose livelihood *depends* upon allegiance to the government to conduct an impartial bond
4 hearing and rule *against* the government creates the same sort of fox-guarding-the-henhouse
5 problem. The Constitution requires a neutral, impartial review—the foundation of which is
6 judicial independence. *See Marshall v. Jerrico, Inc.* 446 U.S. at 242.

7 **126.** In sum, when the government is the party opposing the request for injunctive
8 relief, the balance of the equities and the public interest merge. *Env’t Prot. Info. Ctr. v. Carlson*,
9 968 F.3d 985, 991 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)).

10 **127.** Here, the balance of equities overwhelmingly favors Petitioner, who faces
11 irreparable injury in the form of ongoing constitutional violations and continued additional
12 suffering if the Preliminary Injunction relief is not granted. *See Hernandez*, 872 F.3d at 996
13 (when “[f]aced with ... preventable human suffering, ... the balance of hardships tips
14 decidedly in plaintiffs’ favor”) (internal citation omitted). The public interest likewise weighs
15 strongly in Petitioner’s favor.

16 **128.** As another California district court recently concluded, “[t]he public has a strong
17 interest in upholding procedural protections against unlawful detention, and the Ninth Circuit
18 has recognized that the costs to the public of immigration detention are staggering.” *Diaz v.*
19 *Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14, 2025) (citing *Jorge*
20 *M. F. v. Wilkinson*, No. 21-CV-01434 JST, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021).

21 **129.** More fundamentally, “[i]t is always in the public interest to prevent the violation
22 of a party’s constitutional rights.” *Index Newspapers LLC v. U.S. Marshals Serv.*, 977 F.3d
23 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf’t*, 953 F.3d 1134, 1147-48
24 (9th Cir. 2020) (internal quotation marks omitted)).

CLAIMS FOR RELIEF

**FIRST CLAIM FOR RELIEF IN VIOLATION OF DUE PROCESS CLAUSE OF
THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

130. All persons, including aliens, residing in the United States are protected by the Due Process Clause of the Fifth Amendment to the United States Constitution. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982). The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, 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 Clause protects.” *Zadvydas*, 533 U.S. at 690. Detention by the Respondents puts at risk Petitioner’s protected liberty interest.

COUNT TWO: The continued indefinite detention of Petitioner violates his Fifth Amendment right to due process because his removal is not reasonably foreseeable.

131. Petitioner incorporates the above paragraphs by reference as if fully set forth herein. The INA requires mandatory detention of individuals with final removal orders only during the 90-day removal period. 8 U.S.C. § 1231(a)(2). A noncitizen who is not removed within that period “shall be subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen “*may* be detained beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added). However, in *Zadvydas*, the Supreme Court concluded that due process imposes an “implicit limitation” upon 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 689. Specifically, the Court held that 8 U.S.C. § 1231(a)(6) authorizes detention only for “a period reasonably necessary to bring about the [noncitizen]’s removal from the United States” and that six months of detention after the removal order is final is “presumptively reasonable.” *Id.* at 701. The Court further determined that “once the alien provides good reason to believe

1 that there is no significant likelihood of removal in the reasonably foreseeable future, the
2 Government must respond with evidence sufficient to rebut that showing.” *Id.* Petitioner’s
3 detention is governed by 8 U.S.C. § 1231(a)(6) because she has been detained for more than
4 90 days since he was ordered removed. Here, the 90-day removal period began when the IJ
5 entered an order of removal. *See* 8 U.S.C. § 1231(a)(1)(B)(i); 8 C.F.R. § 1241.1(b). Therefore,
6 the *Zadvydas* framework applies. Petitioner’s continued detention is unreasonable because her
7 removal is not reasonably foreseeable. In any case, Petitioner has now been detained since
8 August 2024, since being re-detained by ICE. Petitioner cannot be removed to Mexico. She
9 has complied with ICE’s requests for assistance obtaining travel documents from Mexico.

10 **132.** Upon information and belief, throughout her prolonged detention, no specific
11 plans have been made to deport Petitioner, and no third country designation has been made.
12 The Due Process Clause of the Fifth Amendment forbids the government from depriving any
13 “person” of liberty “without due process of law.” U.S. Const. Amend. V. Petitioner has a
14 liberty interest in remaining free from physical confinement where removal is not reasonably
15 foreseeable. Respondents have violated the Due Process Clause of the Fifth Amendment
16 because Petitioner’s removal is not reasonably foreseeable. As provided above, *Zadvydas*
17 requires that Petitioner be immediately released. *See* 533 U.S. at 700-01 (describing release
18 as an appropriate remedy); 8 U.S.C. § 1231(a)(6) (authorizing release “subject to . . . terms of
19 supervision”).

20 **133.** Petitioner’s continued detention by Respondents is unlawful as Petitioner still has
21 not been removed, and Petitioner continues to languish in detention. Petitioner’s removal to
22 her country of origin, which would be Mexico, or any country is not significantly likely to
23 occur in the foreseeable future. The Supreme Court held in *Zadvydas* and *Martinez* that ICE’s
24 continued detention of someone like Petitioner under such circumstances is unlawful.

COUNT THREE: Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6).

134. Petitioner incorporates the above paragraphs by reference as if fully set forth herein. As provided in Ground One and Ground Two, above, Petitioner's detention is governed by 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas, supra*. Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6) because it is both unreasonable and because removal is not reasonably foreseeable. Rather, his continued detention under 8 U.S.C. § 1231(a)(6) is driven by sweeping and arbitrary DHS policies. Moreover, and as discussed in Ground One and Ground Two, Petitioner's removal is not reasonably foreseeable. This Court should order that Petitioner, Maria Cordero Pereyra be released.

135. Because Petitioner is being detained indefinitely, her detention violates her right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

136. Even while Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify Petitioner's indefinite detention of Petitioner, who is not significantly likely to be deported in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. Petitioner's case is under appeal review before the BIA. Therefore, DHS cannot provide a date for Petitioner's removal.

COUNT FOUR: ICE's failure to properly comply with its own regulations concerning the re-detention of individuals on orders of supervision violates Petitioner's Fifth Amendment due process rights and the Administrative Procedures Act.

137. Title 8 C.F.R. § 241.4(l) applies to re-detention of individuals previously released by ICE generally, while 8 C.F.R. 241.13(i) applies to persons released after providing good reason to believe that they will not be removed in the reasonably foreseeable future, as Bunnell

1 plainly was. *See Rokhfirooz v. Larose*, No. 25-CV 2053-RSH-VET, 2025 WL 2646165, at *2
 2 (S.D. Cal. Sept. 15, 2025). These regulations permit an official to "return[s] [the person] to
 3 custody" because they "violate[d] any of the conditions of release." 8 C.F.R. § 241.13(i)(1);
 4 *see also id.* § 241.4(l)(1). Otherwise, they permit revocation of release only if the appropriate
 5 official (1) "determines that there is a significant likelihood that the alien may be removed in
 6 the reasonably foreseeable future," *id.* § 241.13(i)(2), and (2) makes that finding "on account
 7 of changed circumstances." *Id.* No matter the reason for re detention, the re-detained person
 8 is entitled to "an initial informal interview promptly," during which they "will be notified of
 9 the reasons for revocation." *Id.* §§ 241.4(l)(1), 241.13(i)(3). The interviewer must "afford[]
 10 the [person] an opportunity to respond to the reasons for revocation," allowing them to
 11 "submit any evidence or information" relevant to re-detention and evaluating "any contested
 12 facts." *Id.*

13 **138.** ICE is required to follow its own regulations. *United States ex rel. Accardi v.*
 14 *Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir.
 15 2004) ("The legal proposition that agencies may be required to abide by certain internal
 16 policies is well-established."). A court may review a redetention decision for compliance with
 17 the regulations. *See e.g. Nguyen v. Noem*, et. al., No. 25CV2792-LL VET, 2025 WL 3101979,
 18 at *2 (S.D. Cal. Nov. 6, 2025); *Phan v. Beccerra*, No. 2:25 CV-01757, 2025 WL 1993735, at
 19 *3 (E.D. Cal. July 16, 2025); *Nguyen v. Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at
 20 *3 (D. Mass. June 20, 2025) (citing *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)).

21 **139.** None of the prerequisites to detention apply here. Petitioner has never been told
 22 that she was returned to custody because of a "conditions" violation. And there are no changed
 23 circumstances that justify re-detaining her. Petitioner still cannot be removed to Mexico, and
 24 there is no indication that any other country has agreed to issue her travel documents. Even if

1 Respondents possess a vague intention to remove Petitioner, absent any evidence as to "why
2 obtaining a travel document is more likely this time around[.] Respondents' intent to
3 eventually complete a travel document request for Petitioner does not constitute a changed
4 circumstance." *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D.
5 Cal. July 16, 2025) (citing *Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at *2 (D.
6 Kan. June 17, 2025)). Nor has Petitioner received the interview required by regulation. No
7 one from ICE has ever invited her to contest the revocation of her order of supervision. *Id.*

8 **140.** Numerous courts have released re-detained immigrants after finding that ICE
9 failed to comply with applicable regulations. *See e.g. Ghafouri v. Noem, et. al.*, No. 3:25-CV-
10 02675-RBM-BLM, 2025 WL 3085726, (S.D. Cal. Nov. 4, 2025); *Ceesay v. Kurzdorfer*, 781
11 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F. Supp. 3d 451,463 (S.D.N.Y.
12 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383,387 (D. Mass. 2017); *Zhu v. Genalo*, No. 1:25-
13 CV-06523 (JLR), 2025 WL 2452352, at *7-9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*,
14 No. 6:25-CV-01204-AA, 2025 WL 2430267, at *10-12 (D. Or. Aug. 21, 2025); *Escalante v.*
15 *Noem*, No. 9:25-CV-00182 MJT, 2025 WL 2491782, at *2-3 (E.D. Tex. July 18, 2025); *Hoac*
16 *v. Becerra*, No. 2:25 cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025);
17 *Liu*, 2025 WL 1696526, at *2; *M.Q. v. United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y.
18 Mar. 31, 2025); *Rokhfirooz v. Larose*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165, (S.D.
19 Cal. Sept. 15, 2025). "[B]ecause officials did not properly revoke petitioner's release pursuant
20 to the applicable regulations, that revocation has no effect, and [Maria Cordero Pereyra] is
21 entitled to h[er] release (subject to the same Order of Supervision that governed [her] most
22 recent release)." *Liu*, 2025 WL 1696526, at *3.

23 **141.** Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a
24 timely and meaningful opportunity to demonstrate that she should not be detained. Here,

1 Petitioner has been denied that opportunity. The failure of Respondents to provide a neutral
2 decision-maker to review the continued custody of Petitioner violates Petitioner's right to
3 procedural due process.

4 **142.** It is important to stress out that there is no clear indication that ICE will remove
5 Petitioner in the reasonably foreseeable future nor can it provide such an indication. Thus,
6 Petitioner warrants release. Further, there is no indication from any Embassy or Consulate
7 that travel documents would be issued for Petitioner. *Lawrikow v. Kollus*, No. CV-08-1403-
8 PHX-GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009).

9 **143.** Recently, federal courts have applied these principles to grant relief. *See, e.g.,*
10 *Moskovyan v. Noem*, No. 3:25-cv-03537-RBM-AHG, 2026 WL 63472 at *2 (S.D. Cal. Jan.
11 8, 2026) (granting petition based on ICE's failure to follow its own regulations on re-
12 detention); *Briones v. LaRose*, No. 3:25-cv-03421-RBM-AHG, 2026 WL 18787 at *2-3 (S.D.
13 Cal. Jan. 2, 2026) (same).

14 **144.** Petitioner's detention goes against United States Supreme Court precedent which
15 recognizes that individuals who have been granted released from custody, even where such
16 release is conditional, have a liberty interest in their continued release. *Morrissey*, 408 U.S.
17 471 at 482. Given this, Petitioner has established a strong likelihood of success in showing
18 that she has a liberty interest as her private interest has been impacted by her detention. *See*
19 *Manzanarez v. Bondi*, No. 1:25-CV-01536-DC-CKD (HC), 2025 WL 3247258, at *4 (E.D.
20 Cal. Nov. 20, 2025) (finding similarly).

21 **145.** In similar cases, federal courts regularly hold that detaining noncitizens without
22 pre-deprivation hearing in which the government bears the burden of proof violates due
23 process, and grants the preliminary relief Petitioner seeks here. *See Garro Pinchi v. Noem*, __
24 F. Supp. 3d __, 2025 WL 2084921, at *7 (converting TRO requiring release of asylum seeker

1 arrested at her immigration court hearing into preliminary injunction prohibiting the
 2 government from re-detaining her without a hearing); *Singh v. Andrews*, 2025 WL 1918679,
 3 *8-10 (E.D. Cal. July 11, 2025) (granting PI under similar circumstances); *Doe*, 2025 WL
 4 691664, at *8 (granting TRO over one month after petitioner's initial detention); *see also*,
 5 *e.g.*, *Diaz*, 2025 WL 1676854, at *3- *4; *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL
 6 1676855, at *3 (N.D. Cal. June 14, 2025); *Jorge M. F.*, 2021 WL 783561, at *4; *Romero v.*
 7 *Kaiser*, No. 22-CV-02508-TSH, 2022 WL 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas*
 8 *v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

9 146. Several federal courts have ordered release for petitioners whose immigration
 10 case are still pending.³ *See, e.g.*, *Hinestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL
 11 2606983, at *2 (N.D. Cal. Sept. 9, 2028); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025
 12 WL 2607924, at *12 (D. Mass Sept. 9, 2025); *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-
 13 KES-SKO (HC), 2025 WL 2617255, at *6 (E.D. Cal. Sept. 9, 2025).

14 147. The courts in those cases have determined that, for these long-term releases,
 15 liberty is the status quo, and only return to that status quo can vert irreparable harm.

16 148. Granting this relief would not even be breaking new ground. Indeed, other federal
 17 courts have granted habeas relief. *See Cavieres Cordero v. Mattos*, No. 2:25-CV-00975-
 18 GMN-BNW, 2025 WL 3101994, at *6-7 (D. Nev. Nov. 6, 2025). *See also, Shadalo v. Mattos*
 19 *et al*, No. 2:25-CV-02076-RFB-BNW (D. Nev. Dec. 14, 2025) and relevant cases. Petitioner
 20 therefore respectfully requests that this Court grant this preliminary injunction and moves for

³ Because immigration detainees whose cases have not been adjudicated are entitled only to a bond hearing-not to outright release-some of these TROs and preliminary injunctions require release unless ICE provides that hearing. But because *Zadvydas* requires outright release on supervision, a TRO or preliminary injunction is fitted to Petitioner's claims should order that relief.

1 immediate release. This Court should find that “petitioner is entitled to h[er] release” on an
 2 order of supervision. *Liu*, 2025 WL 1696526, at *3.

3 **Maria Cordero Pereyra must be released because her detention violates her**
 4 **Procedural and Substantive due process rights.**

5
 6 **149.** As this Court has noted, the federal habeas statute’s “mandate is broad with
 7 respect to the relief that may be granted.” *Aguirre Solis v. Noem*, No. 2:26-CV-00053-RFB-
 8 EJY, 2026 WL 396432, at *7 (D. Nev. Feb. 12, 2026) (quoting *Carafas v. LaVallee*, 391 U.S.
 9 234, 239 (1968)). Federal courts are authorized to dispose of habeas matters “as law and
 10 justice require”. *Id.* (quoting *Carafas*, 391 U.S. at 239). In light of the due process violations
 11 that Petitioner has suffered, she respectfully requests that this Court order her immediate
 12 release.

13 **150.** As explained above, Maria Cordero Pereyra may only be lawfully detained under
 14 8 U.S.C. § 1226(a). Detention under 8 U.S.C. § 1226(a) is discretionary, not mandatory. 8
 15 U.S.C. § 1226(a) (“On a warrant issued by the Attorney General, an alien may be arrested and
 16 detained pending a decision on whether the alien is to be removed from the United States.”)
 17 “[T]he [government’s] discretionary authority in § 1226(a) requires an individualized bond
 18 determination *before* a noncitizen may be taken into custody.” *Hyppolite v. Noem*, No. 25-
 19 CV-4304 (NRM), 2025 WL 2829511, at *8 (E.D.N.Y. Oct. 6, 2025) (emphasis added); *see*
 20 *also Velasca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) (“the government does not
 21 dispute that 8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make
 22 an individualized custody determination”) (internal quotations omitted.))

23 **151.** Pursuant to the regulations implementing this statutory provision, the factors that
 24 must be considered under § 1226(a) *prior to detention* are whether the noncitizen poses a
 25 danger to property or persons” and whether she “is likely to appear for any future proceeding.”

1 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). If the Department determines that detention is
2 warranted, the noncitizen may seek review of that determination by an immigration judge. 8
3 C.F.R. § 1003.19(a).

4 **152.** Here, Petitioner has been deprived of this process: she did not receive an initial
5 custody determination prior to her detention, and she has not received any subsequent custody
6 determination or redetermination by an immigration judge under the correct legal standard
7 where the government shoulders the heavy burden of proof.

8 **153.** Substantive due process protects individuals from government action that
9 interferes with fundamental rights. *See Regino v. Staley*, 133 F.4th 951, 959-60 (9th Cir.
10 2025). “Governmental action that infringes a fundamental right is constitutional only if ‘the
11 infringement is narrowly tailored to serve a compelling state interest.’” *Id.* at 960 (citing *Reno*
12 *v. Flores*, 507 U.S. 292, 302). “Freedom from imprisonment – from government custody,
13 detention, or other forms of physical restraint – lies at the heart of the liberty [the Due Process
14 Clause] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Substantive due process thus
15 protects noncitizens from arbitrary confinement by the government, which violates a
16 noncitizen’s substantive due process rights except in certain “special and narrow nonpunitive
17 circumstances where a special justification...outweighs the individual’s constitutionally
18 protected interest in avoiding physical restraint.” *Id.* at 690 (internal quotations omitted)
19 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) and *Kansas v. Hendricks*, 521 U.S. 346,
20 356 (1997)).

21 **154.** Petitioner’s detention also violates her substantive due process rights. As argued
22 above, her detention was not based on an individualized assessment that detention was
23 necessary to ensure public safety or that Petitioner would appear at her removal proceedings.
24 Her detention since August, 2024, without a bond hearing under the correct legal standard has

1 served no lawful purpose, let alone a compelling one, and was arbitrary in the most basic
2 sense. Accordingly, his detention runs afoul of the Constitution's guarantee of freedom from
3 arbitrary detention, and she must be released.

4 155. In the alternative, Petitioner requests that this Court order the government to
5 provide her with a constitutionally adequate bond hearing, with the government bearing the
6 burden of proving by *clear and convincing evidence* that her detention is warranted because
7 she presents a risk of flight or danger to the community. If Petitioner is not promptly granted
8 such a hearing, she must be released from her unconstitutional detention. *See, e.g., Cruz Perez*
9 *v. Bondi*, 2:26-cv-00315-RFB-DJA, 2026 U.S. Dist. LEXIS 37052, at *3-4 (D. Nev. Feb. 24,
10 2026) (granting relief and ordering the government to hold a bond hearing within seven days
11 "wherein the government bears the burden of establishing an individualized, constitutionally
12 recognized interest in civilly detaining Petitioner" or release him from custody); *Lopez Reyes*
13 *v. Bonnar*, 362 F. Supp. 3d 762, 778 (N.D. Cal. 2019) (same); *E.C. v. Noem*, No. 2:25-cv-
14 01789-RFB-BNW, 2025 WL 2916264, at *13 (D. Nev. Oct. 14, 2025) (same); *Arechiga v.*
15 *Archambeault*, No. 2:23-cv-00600-CDS-VCF, 2023 WL 5207589, at *1 (D. Nev. Aug. 11,
16 2023) (ordering the government to provide the petitioner with a timely bond hearing, with the
17 burden on the government to "establish[] by clear and convincing evidence that [petitioner]
18 is a flight risk or a danger to the community").

19 156. Petitioner is willing to waive a hearing and receive a ruling on the papers unless
20 this Court believes that relief is not warranted, in which case she requests a chance to be heard
21 in oral argument.

22 157. Noncitizens subject to civil immigration detention "cannot be subjected to
23 conditions that 'amount to punishment.'" *See Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir.
24 2004) (quoting *Bell v. Wolfish*, 441 U.S. 520, 535, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979)).

At some point, civil detention can become punitive, resulting in a due process violation. *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021).

158. For these reasons, this Court should grant immediate release or, in the alternative, order Respondents to afford Petitioner a bond hearing under 8 U.S.C. § 1226(a) where DHS bears the heavy burden of proof, under the correct legal standard and analysis of *clear and convincing evidence* establishing danger or flight risk.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests and prays for this Court:

159. Assume jurisdiction over this matter;

160. Issue a declaration that Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment and the Eighth Amendment;

161. Grant Petitioner a Writ of Habeas Corpus directing the Respondents to immediately release Petitioner from custody;

162. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;

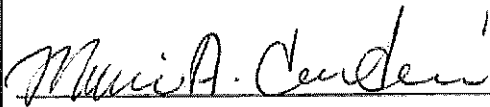
163. Issue a Writ of Habeas Corpus and order Petitioner's release within twenty ("20") days, unless the Respondents schedule a hearing before an immigration judge where: (1) to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, under the correct legal standard, 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 consideration Petitioner's ability to pay a bond.

1 **164.** Issue a declaration that Petitioner's ongoing detention violates the Due Process
2 Clause of the Fifth Amendment and the Eighth Amendment;

3 **165.** Award Petitioner her costs in this action as provided for by the Equal Access to
4 Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other
5 basis justified under law, 28 U.S.C. § 2412, other statute; and

6 **166.** Grant such further relief as this Court deems just and proper

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8 Respectfully submitted on this 19 day of May, 2026.

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11 

12 Maria Cordero-Pereyra

13 Alien No. 

14 Eloy Detention Center

15 1705 East Hanna Road

16 Eloy, AZ 85131
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7 **ACKNOWLEDGEMENT AND VERIFICATION**

8 Under penalty of perjury, the undersigned declares that she is the named Petitioner in the
9 foregoing petition. I have read the foregoing petition and its contents. The statements in the
10 petition are true and correct to the best of my knowledge, except as to any statements alleged
11 on information and belief, and as to those statements, I believe them to be true.

12
13 DATED this 19 day of May, 2026.

14
15
16 Maria A. Cordero

17 -Petitioner, *Pro Se*

18 Maria Cordero-Pereyra

19 Alien No. 

20 Eloy Detention Center

21 1705 East Hanna Road

22 Eloy, AZ 85131

23 / / /

24 / / /

SUPPORTING DOCUMENTS

LETTERS OF SUPPORT



Date: 4/14/2026

To Whom It May Concern,

Detainee Maria Cordero-Pereyra currently housed in  has been consistently attending Christian Bible Studies and Christians Services since arriving at Eloy Detention Center. She treats others with respect and dignity during all our meetings.

I have seen a remarkable transformation with Maria since her arrival. She not only translates for me but recently she has become one of my porters. She is eager to help others and seems very dedicated to being available in whatever needs to be done.

I sincerely vouch for her character as a person, and I believe she will be a great neighbor within our country in whatever community she settles in. She is the quality type that people would love to have within their community.

I don't see any issues with her among other detainees. She gets along with everyone and is great about following rules. If you have any questions, I am available for a conversation. I have found that I can and do trust her with many responsibilities she has performed.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Jackson".

Chaplain Steven Jackson D.C.C.

Eloy Detention Center – South Chapel



Date: 1/23/25

To Whom It May Concern,

Maria Cordero-Pereyra A# [REDACTED] is currently housed in [REDACTED]. She has been attending Christian Church services since arriving at Eloy Detention Center in August of this past year. She participates during the week in both bible study and Christian church. Her positive attitude and willingness to participate is a big plus on her behalf. She has carried herself with respect and dignity during all our meetings. Her hard work and sincerity to help is noticeable.

Recently Maria joined a class that teaches English to detainees. She has volunteered to be the instructor assistant. She makes a huge effort to better herself and help others.

I believe Maria will be a great asset to our country in whatever community she settles in. If you have any questions, I am available for a conversation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steven Jackson'.

Chaplain Steven Jackson D.C.C.

Eloy Detention Center – South Chapel

USCIS

I-192

USCIS U-VISA

USCIS VAWA

USCIS T-VISA

USCIS EAD

CERTIFICATES OF REHABILITATION

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

MARIA CORDERO PEREYRA
ALIEN No. 
PETITIONER, PRO SE
CUSTODY STATUS: DETAINED