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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

M.A.K.,

Petitioner,

v.

TONYA ANDREWS, in official capacity, Facility Administrator of Golden State Annex Detention Center; SERGIO ALBARRAN, in official capacity, Field Office Director of ICE's San Francisco Field Office; TODD M. LYONS, in official capacity, Acting Director of ICE, MARKWAYNE MULLIN, in official capacity, Secretary of the U.S. Department of Homeland Security; TODD BLANCHE, in official capacity, Acting Attorney General of the United States,

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

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INTRODUCTION

1. Petitioner M.A.K.[1] is a 27-year-old man who fled his home country of Afghanistan in 2024 for fear of ethnic and religious persecution.[2] Ex. A. He is dedicated to his family, friends and community. Exs. A, B, C. In Sacramento, California, M.A.K. has established a steady life, building a strong community of friends. Exs. A, B, C. He is the primary caretaker of his U.S. Citizen daughter while his pregnant wife, works to support their growing family.

2. On November 30, 2024, Petitioner entered the United States in Arizona with his wife and immediately turned himself in to border patrol agents. Ex. A. Petitioner's goal was to seek asylum in the United States based on the escalating threats to his and his wife's safety in Afghanistan. Ex. A, B. Respondents detained Petitioner for approximately three weeks before releasing him into the United States on parole, thus vesting him with a powerful liberty interest. Ex. D. For the one-and-a-half years that Petitioner enjoyed his liberty interest, Petitioner complied with ***all*** the conditions of his release including attending yearly check-ins with ICE

[1] Petitioner respectfully requests that the Court use his initials, M.A.K., rather than his full name, in any opinion in his case, as suggested by the Committee on Court Administration and Case Management of the Judicial Conference of the United States. *See* Memorandum Re: Privacy Concern Regarding Social Security & Immigration Opinions, May 1, 2018, available at: https://www.uscourts.gov/sites/default/files/18-cv-l-suggestion_cacm_0.pdf. *See also* Walter A.T., v. Facility Administrator, 2025 WL 1744133, at *10 (E.D. Cal. June 24, 2025). Petitioner is also filing a motion to proceed by pseudonym.

[2] This is a verified habeas petition, but citations are provided for clarity. Citations are made to the Declaration of Counsel ("Morgan Decl.") and its component exhibits. In subsequent citations, counsel cites directly to the exhibits themselves.

and both virtual and in-person check-ins with ISAP, including weekly phone calls and twice monthly office visits. Ex. A. Petitioner also agreed to wear an ankle monitor between February 2025 and April 2025 as a part of the conditions of his parole. Ex. A.

3. On May 18, 2026, Respondents abruptly and unjustifiably took away Petitioner's liberty, detaining him at his ICE check-in appointment in violation of his due process and other rights. Respondents stripped Petitioner of this liberty interest without holding a pre-deprivation hearing or providing grounds that could justify deprivation without process. Ex. A. Even more troubling, this sudden loss of liberty took place while Petitioner was doing precisely what the government required—appearing at a scheduled ICE appointment. Ex. A.

4. Petitioner's unconstitutional detention continues to this day, all without a modicum of the process due to him. Indeed, his case is an illustration of the importance of *pre-*deprivation process. When there is no hearing before detention, unlawful detention cannot be corrected or challenged.

5. This detention of Petitioner violates Due Process, the Immigration and Nationality Act ("INA"), and the Administrative Procedure Act.

6. Petitioner respectfully asks this Court to protect his due process rights by (1) ordering his immediate release, and (2) barring re-detention unless and until Respondents prove by clear and convincing evidence that he is either a danger or flight risk. In the alternative, Petitioner asks this Court to order his release unless he receives a bond hearing, under 8 U.S.C. § 1226(a), before a neutral arbiter at which the government bears the burden of proving danger or flight risk by clear and convincing evidence.

JURISDICTION

7. Petitioner is in the physical custody of Respondents. He is detained at the Golden State Annex, an ICE Processing Center in McFarland, California, which lies in the Eastern District of California.

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

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Eastern District of California, the judicial district in which Petitioner currently is detained. He is detained in Kern County, California.

11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Eastern District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

13. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

14. Petitioner M.A.K., a citizen of Afghanistan, has resided in the United States since November 2024. Ex. A. He fled Afghanistan after suffering violence and receiving escalating threats to his safety from the Taliban, who targeted him for his ethnicity and religious beliefs. Ex. A. On May 18, 2026, he was arrested during a scheduled ICE appointment in Sacramento, California. Ex. A. He has been detained ever since. Ex. A.

15. Respondent Tonya Andrews, the warden of the Golden State Annex Detention Center operated by GEO Group, has immediate physical custody of Petitioner. She is sued in her official capacity.

16. Respondent Sergio Albarran is the San Francisco Field Office Director of ICE's Enforcement and Removal Operations division. As such, Mr. Albarran is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

17. Respondent Todd M. Lyons is the Acting Direct of ICE. He is sued in his official capacity.

18. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and

Nationality Act, and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

19. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

20. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

21. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

FACTS

Petitioner Arrives in the United States, Is Detained, and Is Released

22. Petitioner was born in Afghanistan. Ex. A. While in Afghanistan, he was targeted by members of the Taliban for being a member of the ethnic and religious minority [redacted] Petitioner suffered beatings, destruction of his property, and threats of sexual assault in Afghanistan. Ex. A. Petitioner came to the United States in search of safety. Ex. A.

23. On November 30, 2024, Petitioner entered the United States at or near the state of Arizona and turned himself in to immigration officials at the border. Ex. A.

24. Respondents detained him for approximately three weeks. Ex. A.

25. On or around December 18, 2024, Respondents released Petitioner on parole. Ex. D.

In His State of Liberty, Petitioner Built a Life and Community for Himself and His Young Family.

26. Petitioner came to the United States without knowing the English language and without having an established network of friends or community to support him. Ex. A. Here, he has surmounted many obstacles with determination to build a meaningful life in the United States, both for himself and his young family. Exs. A, B, C. Since his arrival nearly two years ago, Petitioner has built a community of support in Sacramento, California, and has made great strides to provide for himself and others. Ex. A. Petitioner has taken on the important role of primary caretaker for his young daughter, while his wife works to provide for them. Exs. A, B. Petitioner's support is instrumental to his daughter's care and development as well as his wife's ability to work. Exs. A, B.

27. Within the first year of living in the United States, Petitioner timely filed his application for asylum. Ex. A. Petitioner actively sought out a lawyer to represent him in his immigration proceedings. Ex. A. Petitioner desires to comply with all laws and regulations and plans to do everything he can to live life and exercise his liberty in the United States. Ex. A.

28. In his liberty, Petitioner cares full-time for his daughter while his wife works as a delivery driver for Uber Eats. Exs. A, B. Petitioner is waiting for his work permit to be processed via his asylum case so that he, like his wife, is also able to legally work in the United States and support his family. Ex. A. Petitioner is a loving husband and father who enjoys spending time with his family. Exs. A, B. Together, Petitioner and his family regularly spend time at the park, where he and his daughter enjoy playing with a toy ball. Exs. A, B.

29. Petitioner has also grown a community of friends and loved ones in Sacramento. Ex. A. Petitioner has two close friends with whom he spends as often as he can Ex. A. Petitioner and his friends enjoy spending time at each others' houses, talking and relaxing. Exs. A, C. Occasionally, Petitioner and his friends also enjoy going on adventures together, such as picnics. Ex. A.

30. Petitioner has also established a safer life to practice his religion in Sacramento. Ex. A. Petitioner and his wife regularly go to Wednesday prayer at their local mosque, living out the faith that is so important to them. Exs. A, B.

31. Throughout the time Petitioner has lived in the United States, he has proved to be a positive member of society. He is a caring and driven man who is willing to go above and beyond to help others, as noted by those in the community who support him. Exs. B, C. Petitioner has complied with ICE's issued release obligations, including attending yearly check-ins, as well as virtual and in-person check-ins with ISAP, including weekly phone calls and twice monthly office visits. Ex. A. He also has a strong claim for immigration relief and an active asylum case. Ex. A.

Respondents Deprive Petitioner of His Liberty Without A Hearing

32. On May 18, 2026, Petitioner was detained during what he thought was a routine ICE appointment. Ex. A. That morning, rather than being promptly seen at the Sacramento ICE office, he waited in the lobby with his wife and daughter before being suddenly separated and escorted to a different area where two ICE officers arrested him. Ex. A. Scared, confused, and crying, Petitioner asked why this was happening, but ICE officers merely stated that Petitioner would receive an interview for his asylum case while detained. Ex. A. His belongings were then taken away from him while his wife and child panicked and sobbed in the lobby, unable to

understand why Petitioner was being detained. Exs. A., B. Without any hearing or any form of process, Petitioner was then transported to Golden State Annex Detention Center. Ex. A.

Detention, Irreparable Harm to Petitioner

33. Petitioner suffers daily in detention, enduring emotional, psychological, and financial hardship. Ex. A.

34. Petitioner's health suffers every day he is in detention. Petitioner has said that he feels himself getting weaker both physically and mentally with each passing day. Ex. A. While in detention, Petitioner has been afflicted with tooth pain that prevents him from sleeping at night and impacts his ability to eat. Ex. A. Petitioner had to wait approximately three weeks to be seen by a doctor, and while Petitioner was provided with medication, his tooth pain continues. Ex. A. Petitioner is also mentally struggling without being able to regularly call his family or care for his wife who is almost eight months pregnant. Exs. A, B. The anxiety he experiences from his detention is extreme. Ex. A.

35. Petitioner's detention has caused significant harm to the progress he has made in his long-term goal of establishing a safe and stable life for his wife and U.S. Citizen daughter. Ex. A. Petitioner's wife is unable to work because she cannot care for their daughter and drive her Uber Eats deliveries. Ex. B. Because of this, Petitioner's family has already lost income, and he fears that his prolonged detention will result in substantial financial harm. Ex. A. Petitioner and his family have been forced to seek financial assistance from friends in Sacramento to cover basic expenses including food and rent. Ex. A. The anxiety of losing the stability he has fought hard to achieve has further harmed Petitioner's mental well-being. Ex. A.

36. Moreover, the conditions of his confinement have made it exceedingly difficult for Petitioner to access legal assistance. Ex. A. Petitioner found it very hard to find an attorney

to represent him in his habeas case and, even after finding an attorney, it has been difficult to carry out attorney-client communication because of the logistical hurdles created by Petitioner's detention. Ex. A.

37. Members of Petitioner's community are also harmed by his detention. His wife is struggling to provide for herself and their young U.S. Citizen daughter without the childcare support from Petitioner. Exs. A, B. His daughter suffers as well. She cannot understand why her father has been taken away from her. Ex. B. At night, she struggles to sleep; Petitioner's daughter cries for her father, eventually passing out from fatigue. Ex. B. Petitioner worries that his daughter's long-term development will be seriously affected by his detention. Ex. A.

38. Petitioner's unborn son is suffering, too. A recent ultrasound scan revealed that the unborn child has developed a serious condition after Mansoor was detained: fluid in his skull. Exs. A, B. Doctors have warned Petitioner's wife that she must minimize her stress and anxiety to prevent the condition from worsening. Ex. B. However, decreasing her stress and anxiety is an impossible task with Petitioner in detention and no one there to support her and Petitioner's daughter. Ex. B.

39. Petitioner's friends in Sacramento, California have also suffered. Petitioner's friend, Elham [redacted], reports that he sees M[redacted] as a brother to him and that he was deeply saddened when he heard of M[redacted] detention. Ex. C. Elham describes that Petitioner and his family have become well-acquainted with the fellow Afghan community in Sacramento, regularly opening up their home to host friends for tea. Ex. C. Now that Petitioner is detained and unable to support his family, Petitioner's friends have been forced to step in and provide Petitioner's pregnant wife and young daughter with food, baby formula, diapers, and financial support to pay rent. Ex. C.

40. Petitioner misses being able to freely spend time with his wife, daughter, and friends. Ex. A. Petitioner is irreparably harmed by every second that his detention is prolonged. Ex. A.

LEGAL FRAMEWORK

41. Respondents' actions violate Due Process, the Immigration and Nationality Act, and the Administrative Procedure Act.

I. DUE PROCESS RIGHT TO A CUSTODY REDETERMINATION HEARING PRIOR TO RE-DETENTION

42. The Constitution's Due Process Clause makes it unlawful to deprive a person of their protected liberty interest without first providing a hearing. Yet Respondents took away Petitioner's freedom—the weightiest of liberty interests—with no such hearing. Nor could Respondents point to any "urgent," "changed circumstances," that could justify re-detention without a hearing.

A. Petitioner Has a Protected Liberty Interest in His Conditional Release

43. Petitioner's liberty is protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (stating that "freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that [the Due Process] Clause protects."). For over a year-and-a-half preceding his re-detention, Petitioner enjoyed the liberty interest that Respondents created when they released him on parole. Exs. A, D. Petitioner possesses a weighty liberty interest under the Due Process Clause in avoiding re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146-7 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-2 (1973); *Morrissey*, 408 U.S. at 482-3.

44. The Supreme Court clearly explained that a parolee has an interest in "his continued liberty." *Morrissey*, 408 U.S. at 482. This interest means that "subject to the conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life." *Id.* The Court also noted that the liberty interest contains an implicit promise that a parolee will continue to enjoy this interest so long as they satisfy their parole conditions. *Id.* The breaking of this implicit promise "inflicts a grievous loss on the parolee and often others." *Id.* This liberty interest is valuable and shares "many of the core values of unqualified liberty" and it "must be seen within the protection of the [Fifth] Amendment. *Id.*

45. The Supreme Court and Circuit Courts have repeatedly upheld this basic principle that individuals have an important liberty interest in their conditional release. *See, e.g.*, *Young*, 520 U.S. at 152 (holding that individuals placed in a pre-parole created to reduce prison overcrowding have a protected liberty interest requiring pre-deprivation process; *Gagnon*, 411 U.S. at 781-2 (stating that individuals released on felony probation have a protected liberty interest requiring pre-deprivation process); *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (explaining that "[c]ourts have resolved the issue by comparing the specific conditional release in the case before them with the liberty interest in parole as characterized by *Morrissey*."). S*ee also, e.g.*, *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated") (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482). And the protected liberty interest exists even in cases where the individual obtains the liberty interest through a mistake of law or fact. *See Hurd*, 864 F.3d at 683; *Gonzalez-*

Fuentes, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that due process considerations support that an inmate serving a sentence without parole who was mistakenly release on parole could not be re-incarcerated because the mistaken release was not his fault and he had appropriately adjusted to society, so re-detention would be "inconsistent with fundamental principles of liberty and justice.")

46. Petitioner has the same protected liberty interest in his conditional release as the one described in *Morrissey*. Just as in *Morrissey*, Petitioner's release on parole granted him the ability to live at home, work, and "be with family friends and to form the other enduring attachments of normal life." *Morrissey*, 408 U.S. at 582. His status as a noncitizen does not lessen the existence and importance of this liberty interest. *Guillermo M. R.*, 2025 WL 1983677, at *5; *see also Diaz*, 2025 WL 1676854, at *2 ("Courts have previously found that individuals released from immigration custody on bond have a protectable liberty interest in remaining out of custody on bond."); *Jorge M.F.*, 2021 WL 783561, at *3 (holding that a Mexican citizen with pending removal proceedings who had been released on bond had "a substantial private interest in remaining on bond"); *Doe*, 2025 WL 691664, at *5 ("Petitioner, having been released at a bond hearing over four years ago, has a similar liberty interest."); *Ortega*, 415 F. Supp. at 970 (finding "a substantial private interest in remaining on bond, and that interest has only grown in the 18 months since[.]"). The fact that the government release Petitioner from custody without the need for bond only strengthens Petitioner's private interest in remaining free.

B. The Release on Parole Necessarily Reflects a Determination that Petitioner Is Not a Danger or Flight Risk

47. Respondents determined that Petitioner was not a flight risk or a danger to his community when they released him on parole in 2024. Ex. D. When deciding to release a non-

citizen from detention on parole, Respondents must decide whether the person "pose[s] a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8). The decision to release a person on parole "reflects a determination that the noncitizen is not a danger to the community or a flight risk." Saravia v. Sessions, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), aff'd sub nom. Saravia for A.H. v. Sessions, 905 F.3d 1137 (9th Cir. 2018).

C. Respondents Have Failed to Show Changed Circumstances Justifying Petitioner's Re-detention.

48. Once Respondents make a release determination, they cannot override that decision later without a hearing showing changed circumstances by clear and convincing evidence. Re-detention cannot be justified absent this showing. See *Matter of Sugay*, 17 I. &N. Dec. 637, 640 (BIA 1981) (holding "where a previous bond determination has been made by an immigration judge, no change should be made by DHS absent a change of circumstances.") (cleaned up); *Saravia*, 280 F. Supp. 3d at 1197 (noting that "DHS has incorporated this holding [from *Sugay*] into its practice, requiring a showing of change circumstances both where the prior bond determination was made by an immigration judge and where the previous release decision was made by a DHS officer."). *Saravia*, 280 F. Supp. 3d at 1197 (explaining that "[o]nce a noncitizen has been released, the law prohibits federal agents from rearresting him merely because he is subject to removal proceedings. Rather, the federal agents must be able to present evidence of materially changed circumstances — namely, evidence that the noncitizen is in fact dangerous or has become a flight risk, or is now subject to a final order of removal."); *see Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021) ("Thus, absent changed circumstances […]ICE cannot redetain Panosyan.").

49. Courts have required Respondents to demonstrate not only "changed circumstances" but also "evidence of urgent concerns" if they seek to re-detain a noncitizen without a hearing. *See Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1036 (N.D. Cal. 2025) ("absent evidence of urgent concerns, a pre-deprivation hearing is required to satisfy due process, particularly where an individual has been released on bond by an IJ"). This applies not only to those released on bond but also to those released on their own recognizance or on parole. *See* supra; *see also Rodriguez v. Kaiser*, No. 1:25-CV-01111-KES-SAB (HC), 2025 WL 2855193, at *7 (E.D. Cal. Oct. 8, 2025) (concluding that, "given the absence of evidence of urgent concerns . . . a pre-deprivation hearing [was] required to satisfy due process," and collecting cases).[3]

50. As the court in *Guillermo M.R.* noted, the court could not "identify any other context in which government agents could permissibly take someone who has been released by a judge, lock up that person, and have no hearing either beforehand or promptly thereafter." *Guillermo M. R. v. Kaiser*, 2025 WL 1983677, at *7 (N.D. Cal. July 17, 2025). The courts have made clear that DHS does not get a free pass from the requirements of due process. *See, e.g., Pinchi*, 2025 WL 2084921, at *3 ("[T]he liberty [of a person released from government custody] is valuable and must be seen as within the protection of the [Due Process Clause].") (*citing Morrissey*, 408 U.S. at 482)). DHS must ensure due process *before* re-detention: "Respondents may not re-detain petitioner unless the government proves by clear and

[3] Numerous decisions reach this conclusion. Alvarenga Matute v. Wofford, No. 1:25-CV-01206-KES-SKO (HC), 2025 WL 2996577, at *2 (E.D. Cal. Oct. 24, 2025); W.V.S.M. v. Wofford, No. 1:25-cv-01489-KES-HBK (HC), 2025 U.S. Dist. LEXIS 228189, at *3 (E.D. Cal. Nov. 19, 2025); Ramandi v. Field Office Dir., ICE Ero S.F., No. 1:25-CV-01462-JLT-EPG, 2025 U.S. Dist. LEXIS 224698, at *2 (E.D. Cal. Nov. 13, 2025); F.M.V. v. Wofford, No. 1:25-cv-01381-KES-SAB (HC), 2025 U.S. Dist. LEXIS 217645, at *3 (E.D. Cal. Nov. 4, 2025); Vilela v. Robbins, No. 1:25-cv-01393-KES-HBK (HC), 2025 U.S. Dist. LEXIS 219172, at *3 (E.D. Cal. Nov. 6, 2025); J.A.E.M. v. Wofford, No. 1:25-cv-01380-KES-HBK (HC), 2025 U.S. Dist. LEXIS 211728, at *2 (E.D. Cal. Oct. 27, 2025).

convincing evidence at a bond hearing before a neutral decisionmaker that petitioner is a flight risk or danger to the community such that his physical custody is legally justified." *Alvarenga Matute v. Wofford*, 2025 WL 2817795, at *8 (E.D. Cal. Oct. 2, 2025).

51. As for the process due to a noncitizen following their re-detention by ICE, the district court decision in *Domingo v. Kaiser*, 2025 WL 1940179, is illustrative. In that case, the petitioner, a noncitizen from Guatemala, had been re-detained by ICE twelve years after his release on a bond. *Id.* at *1. He had been convicted of a crime in 2019 following his release on bond, but ICE required no supervision, no check-ins, and no additional monitoring since his conviction. *Id.* at *3. The petitioner challenged his mandatory detention, arguing that his re-detention without review by a neutral adjudicator violated his due process rights. *Id.* at *1. In granting a preliminary injunction, the Court held that even with the new facts, the petitioner had established a strong likelihood of success in showing that he had an interest in his continued liberty and that mandatory detention, in that case, under 8 U.S.C. 1225(b)(1)(B)(ii), would violate this due process rights unless he was afforded adequate process. *Id.* at *4. The Court further held that, after applying the three-factor test in *Mathews*, 424 U.S. at 335, the petitioner was entitled to a hearing before a neutral decision maker to determine whether his detention was warranted. *Id.* At that hearing, the government bore the burden of establishing, by clear and convincing evidence, whether he posed a danger or a flight risk.

52. No "changed circumstances" exist that could justify Respondents' decision to re-detain Petitioner without a hearing. Petitioner has not engaged in any activities that would make him a flight risk. Indeed, in the nearly two years during which Petitioner enjoyed his liberty interest, his actions have only lessened any concerns about flight risk. He is a full-time caretaker for his U.S. Citizen daughter which has allowed his wife to work, providing his family and him

with dependable, financially stable employment. Exs. A, B. He built and maintained a community of friends and loved ones in Sacramento, California. Exs. A, C. He participated in regular ICE check-ins and home visits, and complied with the ISAP virtual check-ins, as well as any other appointment required of him. Ex. A. Indeed, Petitioner was re-detained *while attending* an ICE appointment. Ex. A. This is strong proof that he is not a flight risk.

53. Petitioner was released on parole on December 18, 2024. Exs. A, D. There were no grounds for detaining a person who was complying with the conditions of his release—and especially not for detaining such a person *without a hearing*. Due process cannot justify re-detention without a hearing in circumstances like this.

D. Petitioner's Liberty Interest Mandated a Hearing Before any Re-Detention

54. Due process mandates that Petitioner receive notice and a hearing before a neutral adjudicator prior to any re-arrest or re-detention. *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82) (holding "adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process."). This Court must "balance [Petitioner's] liberty interest against the [government's] interest in the efficient administration of" immigration laws to determine what process he is owed to ensure ICE does not unconstitutionally deprive him of his liberty. Id. at 1357. Under the test set forth in *Mathews*, this Court must consider three factors in conducting its balancing test:

> (1) The private interest that will be affected by the official action;
> (2) The risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and

(3) The government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.

Haygood, 769 F.2d at 1357 (*citing Mathews*, 424 U.S. at 335).

55. The Supreme Court "usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where "one of the variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible in preventing the kind of deprivation at issue" such that "the State cannot be required constitutionally to do the impossible by providing pre-deprivation process," can the government avoid providing pre-deprivation process. *Id.*

56. Because, in this case, the provision of a pre-deprivation hearing was both possible and valuable in preventing an erroneous deprivation of liberty, ICE was required to provide Petitioner with notice and a hearing *prior* to any re-detention. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Zinermon*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in jail pending the determination as to whether they can ultimately be recommitted). Under *Mathews*, "the balance weighs heavily in favor of [Petitioner's] liberty" and required a pre-deprivation hearing before a neutral adjudicator, which ICE failed to provide.

E. Petitioner's Private Interest in His Liberty Is Profound

57. Under *Morrissey* and its progeny, individuals conditionally released from serving a criminal sentence have a liberty interest that is "valuable." *Morrissey*, 408 U.S. at 482. As espoused in *Hurd* and *Johnson*, a person who is in fact free of physical confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles him to constitutional due process before he is re-incarcerated. These principles apply with even greater force to individuals like Petitioner, who have been released pending civil removal proceedings, rather than parolees or probationers who are subject to incarceration as part of a sentence for a criminal conviction. Parolees and probationers have a diminished liberty interest given their underlying convictions. *See, e.g.*, *United States v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987). But even in the criminal parolee context, the courts have held that the parolee cannot be re-detained without a due process hearing in which they can raise any claims they may have regarding why their re-detention would be unlawful. *See Gonzalez-Fuentes,* 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, Petitioner retains a truly weighty liberty interest.

58. At stake here is one of the most profound individual interests recognized by our legal system. This case tests whether ICE can unilaterally nullify an earlier decision of the government to release Petitioner, thus taking away his physical freedom, *i.e.*, his "constitutionally protected interest in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Zadvydas*, 533 U.S. at 690; *Cooper v. Oklahoma*, 517 U.S. 348 (1996); *Doe*, 2025 WL 691664, at *5 ("It cannot be gainsaid that Petitioner has a substantial private interest in maintaining his

out-of-custody status."). There is a profound private interest in this case, which must be weighed heavily when determining what process Petitioner is owed under the Constitution. *See Mathews*, 424 U.S. at 334-35.

F. The Government's Interest in Keeping Petitioner in Detention Without a Hearing Is Low, and the Burden Is Minimal on the Government to Release Him from Custody Until He Is Provided a Hearing.

59. The government's interest in keeping Petitioner in detention without a hearing is low; when weighed against Petitioner's significant private interest in his liberty, the scale tips sharply in favor of releasing him from custody unless and until the government demonstrates by clear and convincing evidence that he is a flight risk or danger to the community. It becomes clear that the *Mathews* test favors Petitioner when the Court considers that the process he seeks—release from custody pending notice and a hearing regarding whether he should be re-detained or a bond amount should be set—is a standard course of action for the government. In the alternative, providing Petitioner with a hearing before this Court (or a neutral decisionmaker) to determine whether there is clear and convincing evidence that he is a flight risk or danger to the community would impose only a *de minimis* burden on the government: the government routinely provides this sort of hearing to detained individuals like Petitioner.

60. As immigration detention is civil, it can have no punitive purpose. The government's only interest in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. Respondents knew for nearly two years before the re-detention that Petitioner was not a citizen and they allowed him to remain free. Ex. A. This shows that there was no rush to detain Petitioner and that he could have been given the appropriate process.

61. The government's interest in detaining Petitioner currently is therefore low. The "fiscal and administrative burdens" that release from custody, unless and until a pre-deprivation bond hearing is provided, would impose are nonexistent in this case. *See Mathews*, 424 U.S. at 334-35. Petitioner does not seek a unique or expensive form of process. He only seeks release from custody until a routine hearing regarding whether his initial release on parole should be revoked and whether he should be re-incarcerated takes place.

G. Without Release from Custody until the Government Provides a Hearing, Risk of Erroneous Deprivation of Liberty is High; Process in the Form of a Constitutionally Compliant Hearing Where ICE Carries the Burden Would Decrease Risk.

62. Releasing Petitioner from custody until he is provided with a pre-deprivation hearing would decrease the risk of him being erroneously deprived of his liberty. Before Petitioner can be lawfully detained, he must be provided with a hearing before a neutral adjudicator at which the government is held to show that there have been sufficiently changed circumstances such that the 2024 release determination should be altered or revoked because clear and convincing evidence establishes that Petitioner is a danger to the community or a flight risk. *See, e.g., Diaz*, 2025 WL 1676854, at *3 (finding "the three factors relevant to the due process inquiry set out in *Mathews*...support requiring a pre-detention hearing" for a petitioner released on an IJ bond).

63. Petitioner has already been erroneously deprived of his liberty, and the risk that he will continue to be deprived is high if ICE is permitted to keep him in detention after making a unilateral decision to re-detain him. Petitioner was previously granted release, however DHS's recent (and unlawful) interpretation of 8 U.S.C. § 1225(b)(2) means that DHS will treat him as subject to mandatory detention, thus depriving him of even post-deprivation

process. There is no longer any statutory mechanism that would provide Petitioner any process before a neutral adjudicator following his re-detention. As a result, under current procedures, the validity or necessity of Petitioner's re-detention and continued imprisonment by ICE would evade any review by an immigration judge or any other neutral arbiter.

64. By contrast, the procedure Petitioner seeks—release from custody and reinstatement of his prior release order until he is provided a hearing in front of a neutral adjudicator at which the government proves by clear and convincing evidence that circumstances have changed to justify his re-detention—is much more likely to produce accurate determinations regarding factual disputes, such as whether a certain circumstance constitutes a "materially changed circumstance." The Supreme Court has emphasized the importance of *pre-deprivation* hearings where available, as such an option is here. *See Zinermon*, 494 U.S. at 985 (only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process satisfy the requirements of due process).

65. Numerous court decisions have found due process violated when ICE skips over a pre-deprivation hearing and detains a person who was previously released on parole, on own recognizance, or on bond.[4] And in these cases, the required relief is an immediate release, coupled with an order not to re-detain the Petitioner without a pre-deprivation hearing.

[4] *See, e.g.*, *Ramazan M. v. Andrews*, No. 1:25-cv-01356-KES-SKO (HC), 2025 U.S. Dist. LEXIS 221796, at *3-4 (E.D. Cal. Nov. 10, 2025) (immediate release for humanitarian parole re-detention case); *see also Omer G.G. v. Kaiser*, No. 1:25-cv-01471-KES-SAB (HC), 2025 U.S. Dist. LEXIS 230551, at *1-6 (E.D. Cal. Nov. 22, 2025) (same); *Alvarenga Matute v. Wofford*, 2025 WL 2996577, at *2 (E.D. Cal. Oct. 24, 2025); *W.V.S.M. v. Wofford*, 2025 U.S. Dist. LEXIS 228189, at *3 (E.D. Cal. Nov. 19, 2025); *Ramandi v. Field Office Dir., ICE Ero S.F.*, No. 2025 U.S. Dist. LEXIS 224698, at *2 (E.D. Cal. Nov. 13, 2025); *F.M.V. v. Wofford*, 2025 U.S. Dist. LEXIS 217645, at *3 (E.D. Cal. Nov. 4, 2025); *M.V.I. v. Andrews*, 2025 U.S. Dist. LEXIS 222773, 2025 WL 3154403, at *12 (E.D. Cal. Nov. 12, 2025); Alva v. Noem, No. 1:25-cv-01600-DJC-CSK, 2025 U.S. Dist. LEXIS 232065, at *11 (E.D. Cal. Nov. 25, 2025); *Vilela v. Robbins*, 2025 U.S. Dist. LEXIS 219172, at *3 (E.D. Cal. Nov. 6, 2025); *J.A.E.M. v. Wofford*, 2025 U.S. Dist. LEXIS 211728, at *2 (E.D. Cal. Oct. 27, 2025); *Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*,

II. ALTERNATIVE GROUNDS FOR RELIEF: STATUTORY DETENTION AUTHORITY

66. Petitioner's detention without even the possibility of a bond hearing violates the Immigration and Nationality Act, thus providing an additional basis for habeas relief.

67. On July 8, 2025, ICE, announced a new policy "in coordination with" the DOJ. This new policy rejected the well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[5] asserts that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225(a)(1), and therefore subject to mandatory detention provision under Section 1225(b)(2)(A). The policy applies regardless of when or where a person was apprehended, and it affects those who have resided in the United States for months, years, and even decades.

68. On September 5, 2025, the Board of Immigration Appeals (BIA) issued an opinion adopting this interpretation of the detention statutes. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025). This BIA decision holds that "aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." *Id.*

2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Garcia v. Bondi*, 2025 WL 1676855, at *4 (N.D. Cal. June 14, 2025); *Diaz v. Kaiser*, 2025 WL 1676854, at *4 (N.D. Cal. June 14, 2025); *Guillermo M.R. v. Polly Kaiser*, 2025 WL 1983677, at *7 (N.D. Cal. June 30, 2025); *Phan v. Becerra*, 2025 WL 1808702, at *3 (E.D. Cal. June 30, 2025); *Domingo*, 2025 WL 1940179, at *10; *Quoc Chi Hoac v. Becerra*, 2025 WL 1993771, at 3 (E.D. Cal. July 16, 2025); *Soto Garcia v. Andrews*, 2025 WL 1927596, at * 5 (E.D. Cal. July 14, 2025); *Pinchi v. Noem*, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025); *Zakzouk v. Becerra*, 2025 WL 2097470, at *4 (N.D. Cal. July 26, 2025); *Salam v. Maklad*, 2025 WL 2299376, at *9 (E.D. Cal. Aug. 8, 2025).

[5] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

69. Respondents have adopted this position even though federal courts have rejected it.[6] The U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who are neither apprehended upon arrival to the United States nor within the first two years of presence. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025). In the Central District of California, detainees sought a nationwide class action challenging this policy. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Class Action Compl. & Am. Pet. for Habeas Corpus, Dkt. 15 (C.D. Cal. July 28, 2025). The district court granted class certification and a motion for summary judgment. This issue of mandatory detention was argued before the Ninth Circuit and is currently awaiting a decision.

70. As numerous federal district court decisions explain, Respondents' interpretation of Section 1225(b)(2) defies the INA's text and is, thus, largely unsupported.

71. First, the DHS-DOJ reading of Section 1225(b)(2)(A) is wrong because it requires courts to ignore several words in the text of that very subsection. Petitioner was apprehended by ICE on May 18, 2026, in Sacramento, California, not at the border. The text of

[6] A partial list of such cases can be found here. *See, e.g.*, *Guerrero Lepe v. Andrews*, --- F. Supp. 3d ---, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025) (granting habeas relief); *Salazar v. Dedos*, 2025 WL 2676729, at *1 (D.N.M. Sept. 17, 2025); *Lopez-Campos v. Raycraft*, --- F. Supp. 3d ----, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (granting habeas relief); *Kostak v. Trump*, No. 3:25-cv-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025) (granting preliminary relief); *Benitez v. Noem*, No. 5:25-cv-02190, Doc. 11 (C.D. Cal. Aug. 26, 2025) (granting preliminary relief); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025) (granting habeas relief); *Romero v. Hyde*, --- F. Supp. 3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (granting habeas relief); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025) (granting habeas relief); *Aguilar Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (granting habeas relief); *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (granting habeas relief); *Rocha Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation to grant habeas relief), adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) (granting habeas relief); *Lopez Benitez v. Francis*, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) (granting individual habeas relief); *Maldonado Bautista v. Santacruz*, *13 (C.D. Cal. July 28, 2025) (granting preliminary relief); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025) (denying reconsideration of individual habeas relief); *Romero v. Hyde*, --- F. Supp. 3d ----, 2025 WL 2403827 (D. Mass. July 19, 2025) (granting habeas relief); *Gomes v. Hyde*, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting individual habeas relief).

the "mandatory detention" statute does not cover a person detained like this. As Justice Antonin Scalia and his co-author, Bryan A. Garner, explain: "If possible, every word and every provision is to be given effect." SCALIA AND GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS AT 174 (2012). A good interpretation of a statute will not result in "extra" words. Yet that is exactly what occurs if one tries to apply Section 1225(b)(2)(A) to Petitioner's case. Here is the full text of Section 1225(b)(2)(A), the mandatory-detention provision:

> [I]n the case of an alien who is an applicant for admission, if the [1] *examining immigration officer* determines that an alien [2] *seeking* admission is [3] *not clearly and beyond a doubt entitled to be admitted*, the alien shall be detained for a proceeding under section 240.

8 U.S.C. § 1225(b)(2)(A) (emphasis and bracketed numbers added). On May 18, 2026, when Petitioner was apprehended at an ICE appointment, he was never seen by an "examining immigration officer." There was never a "determin[ation] that . . ." he was "not clearly and beyond a doubt entitled to be admitted." Nor was Petitioner "seeking" anything at the time of his apprehension. He had been living free in the United States for nearly two years after the government had released him on parole. The reason the DHS-DOJ application of the statute has all of these "extra" words is that the statute applies only to those who are "arriving" at the border and are candidates for "expedited removal." In that "arriving" context, those "extra" words make sense, as there will be an "examining immigration officer" and there will be a determination of potential eligibility for immigration relief, and the noncitizen is "seeking" something, namely, admission. This misreading has been demonstrated by many district courts.[7]

[7] *Martinez v. Hyde*, No. CV 25-11613-BEM, — F.Supp.3d —, —, 2025 WL 2084238, at *2 (D. Mass. July 24, 2025); *see also Lopez Benitez*, — F.Supp.3d at —, 2025 WL 2371588, at *5; Lepe v. Andrews, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910, at *4 (E.D. Cal. Sept. 23, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, — F.Supp.3d —, —, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025).

72. Second, the DHS-DOJ reading of Section 1225(b)(2)(A) violates the INA because it renders a neighboring subsection superfluous. In Section 1226(c), the INA describes people who would otherwise be eligible for bond under Section 1226(a), but are rendered ineligible for bond because of their criminal histories. *See* 8 U.S.C. § 1226(c). Of particular interest, subsections 1226(c)(1)(E)(i)-(ii) address people alleged to be inadmissible under 8 § U.S.C. § 1182(a)(6)(A) as aliens present without inspection. According to these subsections, such people are ineligible for bond *only* if they are also "charged with, . . . arrested for, . . . convicted of . . ." certain crimes. *See* 8 U.S.C. § 1226(c)(1)(E)(i)-(ii). In short, Section 1226(c) requires mandatory detention for people who have entered without inspection *and* have criminal histories. But if the DHS-DOJ reading were correct, then all people who entered without inspection would be mandatorily detained, regardless of whether they had criminal histories or not. Subsections 1226(c)(1)(E)(i) and (ii) would be superfluous, if the DHS-DOJ position were correct, because Section 1225(b)(2)(A) would govern all cases where someone was alleged to have entered without inspection. But we know that cannot be right, as these subsections of 1226(c)(1) were the most recent subsections added by Congress to the INA just this year in the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. ___ (2025) (adding (E)(i) and (E)(ii) to Section 1226(c)(1)). Congress would not have added the subsections only to see these additions rendered completely superfluous. That is another sign that the government's reading of Section 1225(b)(2)(A) is wrong.[8] Several district courts have come to this same conclusion.[9]

[8] As the Supreme Court has explained, "It is our duty to give effect, if possible, to every clause and word of a statute." *Duncan v. Walker*, 533 U.S. 167, 174 (2001); *see Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1259 (W.D. Wash. 2025); *see also* SCALIA AND GARNER, *READING LAW*, AT 174 ("If possible, every word and every provision is to be given effect. . . . None should needlessly be given an interpretation that cause it to . . . have no consequence.").

[9] See Gomes, 2025 WL 1869299, at *5; Lopez Benitez, —— F.Supp.3d at ——, 2025 WL 2371588, at *7; Romero v. Hyde, No. CV 25-11631-BEM, —— F.Supp.3d at ——, ——, 2025 WL 2403827, at *11 (D. Mass. Aug. 19, 2025); Maldonado v. Olson, No. 25-CV-3142 (SRN/SGE), —— F.Supp.3d ——, ——, 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025); Lepe v. Andrews, 2025 WL 2716910, at *6 (E.D. Cal. Sept. 23, 2025).

73. Third, the DHS-DOJ reading of the statute is wrong because it is incompatible with the title of Section 1225, "Inspection by Immigration Officers; *Expedited Removal of Inadmissible Arriving Aliens*; Referral for Hearing." 8 U.S.C. § 1225 (emphasis added). As the Supreme Court has explained, "the title of a statute and the heading of a section are tools available for the resolution of a doubt" about a statute's meaning. *Almendarez-Torres v. United States*, 523 U.S. 224, 234 (1998). Section 1225's title refers to "arriving" noncitizens who are put in "expedited removal proceedings." *Id.* These are the people to whom Section 1225(a)(1)'s definition of "applicant for admission" and Section 1225(b)(2)(A)'s mandatory detention provisions apply. The government gravely errs by applying the definition of "applicant for admission" to people who are not "arriving" and not in "expedited removal proceedings." In this case, Petitioner was not "arriving" or "seeking admission" when he was detained in Sacramento, nearly two years after he allegedly crossed the border. Nor was he placed in expedited removal proceedings.

74. Fourth, and relatedly, the DHS-DOJ reading violates the INA because it ignores the subject-matter of Section 1225. Section 1225 describes the procedures for the inspection and expedited removal of people detained at the border who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). The Supreme Court itself noted that the mandatory detention scheme in Section 1225(b)(2)(A) applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Throughout, Section 1225's text makes clear that it concerns apprehensions and "expedited" procedures carried out at the border—not actions taken far from the border, as in Petitioner's case. That the DHS-DOJ reading of the statute ignores this context is a sure sign that it is wrong. "It is a fundamental

canon of statutory construction," the Supreme Court explained, "that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Davis v. Michigan Dep't of Treasury*, 489 U.S. 803, 809 (1989). The context of Section 1225 demonstrates that subsections 1225(a)(1) and 1225(b)(2)(A) apply to those apprehended at or near the border on arrival or shortly thereafter. They do not apply to those who are arrested in the interior of the United States months or years or decades later. Quite simply, the DHS-DOJ reading of the statute is an act of cherry-picking a definitional phrase from one context and applying it to another context where it does not belong.

75. Nor is this Court bound by the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), which endorsed this unlawful interpretation of sections 1225 and 1226. As the Supreme Court has recently held, "[C]ourts must exercise independent judgment in determining the meaning of statutory provisions." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024). After *Loper Bright*, a federal court "may look to [the BIA's] interpretations [of the INA] for guidance, but [must not] defer to the agency." *Lopez v. Garland*, 116 F.4th 1032, 1036 (9th Cir. 2024).

76. For the distinct reasons outlined above, the mandatory detention provision of Section 1225(b)(2)(A) does not apply to people like Petitioner.

CLAIMS FOR RELIEF

COUNT I: VIOLATION OF DUE PROCESS

77. Petitioner incorporates by reference the factual allegations and legal arguments set forth in the preceding paragraphs.

78. The government may not deprive a person 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 the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

79. Petitioner has a fundamental liberty interest in being free from official restraint.

80. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger violates his right to due process.

COUNT II: VIOLATIONS OF THE INA

81. Petitioner incorporates by reference the factual allegations and legal arguments set forth in the preceding paragraphs.

82. For the reasons described above, the mandatory detention provision of 8 U.S.C. § 1225(b)(2) cannot apply to all noncitizens in the United States who are subject to the specified grounds of inadmissibility, entry without inspection. As relevant here, this mandatory detention statute cannot be read to apply to those who are accused of residing in the United States for decades before apprehension and removal proceedings. A person with long-term residence in the United States who is alleged to be removable should be deemed detained under Section 1226(a), unless they are subject to Section 1226(c) or Section 1231. Indeed, for the reasons described in all the paragraphs above, the mandatory detention statute cannot be read to apply to someone in Petitioner's circumstances.

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

COUNT III: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

84. Petitioner incorporates by reference the factual allegations and legal arguments set forth in the preceding paragraphs.

85. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

86. Respondents' detention of Petitioner under Section 1225(b)(2) is arbitrary and capricious. Respondents' detention of Petitioner violates the INA and the Fifth Amendment. Respondents do not have statutory authority under Section 1225(b)(2) to detain Petitioner.

87. Petitioner's detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring Petitioner's immediate release and prohibiting his re-detention unless the government provides seven days' notice and a hearing before a neutral arbiter in which it proves by clear and convincing evidence that Petitioner is a danger or flight risk and order that Respondents may not subject Petitioner to any post-release monitoring or supervision, nor prohibit Petitioner from returning to Sacramento, California;

c. In the alternative, order that Respondents release Petitioner immediately or provide Petitioner with a bond hearing, within 7 days, before a neutral arbiter pursuant to 8 U.S.C. § 1226, at which the government bears the burden of proving danger or flight risk by clear and convincing evidence;

d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;

e. Prohibit Respondents from relocating Petitioner outside of the Eastern District of California pending final resolution of this litigation;

f. Grant any other and further relief that this Court deems just and proper.

DATED this 7th day of July, 2026.

/s/Chase Morgan

Attorney for Petitioner

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

I, Chase Morgan, am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys and Petitioner is in custody with limited ability to sign documents. I verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on July 7th, 2026, at San Francisco, California.

/s/Chase Morgan
Chase Morgan
Attorney for Petitioner