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UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

L.C.V.,

Petitioner,

vs.

CHRISTOPHER CHESTNUT, Warden of California City Detention Facility; SERGIO ALBARRAN, Field Office Director of the San Francisco Immigration and Customs Enforcement Office; LANCE SCHROYER, Acting Director of United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of United States Department of Homeland Security; TODD BLANCHE, Acting Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

IMMIGRATION HABEAS CASE

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INTRODUCTION

1. Petitioner L.C.V.[1] respectfully petitions this Honorable Court for a writ of habeas corpus to remedy her unlawful detention by Respondents. L.C.V. has been detained for over ten months by Immigration and Customs Enforcement ("ICE") at a private prison. Her detention runs afoul of her procedural and substantive due process rights.

2. Petitioner is a citizen of Honduras who fled lifelong violence and abuse from family, intimate partners, and gang members; a young single mother, L.C.V. came to the U.S. to seek a safer future. Once here, she was subject to even more severe violence, trapped in a cycle of abuse by partners and family members—including as [redacted]—as she tried to establish a stable life for herself and her child.

3. Despite her fear of return to Honduras, Respondents have continued to hold L.C.V. without a hearing for almost 11 months, contrary to law. First, L.C.V. was detained without a pre-deprivation hearing, despite having a significant liberty interest after Respondents initially released her from immigration custody two years earlier. Second, L.C.V. should not be subject to mandatory detention under § 1225(b). Third, her prolonged detention without any neutral review violates her procedural due process rights. She asks this Court to issue a writ of habeas corpus and order her immediate release with appropriate conditions, whereupon Respondents cannot redetain her without a pre-deprivation hearing before a neutral arbiter at which they demonstrate by clear and convincing evidence that L.C.V. is a danger or flight risk that cannot be mitigated by any

[1] L.C.V. respectfully requests that the Court use her initials, rather than her full name, in any opinion in her 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*, No. 1:24-CV-01513-EPG-HC, 2025 WL 1744133, at *10 (E.D. Cal. June 24, 2025). L.C.V.'s full legal name and A-number will be provided to the assigned attorney within the U.S. Department of Justice.

alternative conditions of release; or at a minimum, to issue a post-deprivation bond hearing at which DHS bears the burden by clear and convincing evidence of demonstrating that L.C.V. is a flight risk or danger to the community that cannot be mitigated by any alternative conditions of release.

JURISDICTION

4. L.C.V. is detained in the custody of Respondents at the California City Detention Facility ("CCDF") in California City, California.

5. Jurisdiction is proper over a writ of habeas corpus pursuant to Art. 1 § 9, cl. 2 of the United States Constitution (the Suspension Clause); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1331 (federal question). This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution, and the Immigration & Nationality Act ("INA"). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

6. Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar review of legal challenges to prolonged immigration detention); *see also id.* at 876 (Breyer, J., dissenting) ("8 U.S.C. § 1252(b)(9) . . . by its terms applies only with respect to review of an order of removal") (internal quotation marks and brackets omitted).

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C. § 2241(a) because this is the district in which L.C.V. is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197–99 (9th Cir. 2024).

REQUIREMENTS OF 28 U.S.C. § 2243

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

9. 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) (internal quotation marks omitted).

PARTIES

10. Petitioner L.C.V. is a twenty-five-year old asylum seeker from Honduras. She is currently detained at CCDF in California City, California. She was released by Respondents from custody at the U.S. border on July 4, 2023, and re-detained by Respondents on August 28, 2025. She has been in detention since.

11. Respondent Christopher Chestnut is the Warden of the CCDF, a private, for-profit immigration detention facility that contracts with ICE to detain individuals suspected of civil immigration violations. Respondent Chestnut is Petitioner's immediate physical custodian. Respondent Chestnut is named in his official capacity.

12. Respondent Sergio Albarran is the Field Office Director of the San Francisco ICE Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility. As such, he is the federal official most directly responsible for overseeing CCDF and L.C.V.'s detention. Respondent Albarran is sued in his official

capacity.

13. Respondent Lance Schroyer is the Acting Director of ICE. Respondent Schroyer is responsible for ICE's policies, practices, and procedures, including those relating to the detention and removal of immigrants. He is named in his official capacity.

14. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). Respondent Mullin is responsible for overseeing the Department and its sub-agency, ICE, and has ultimate responsibility for the detention of noncitizens in civil immigration custody. He is named in his official capacity.

15. Respondent Todd Blanche is the Acting Attorney General of the United States and the head of the Department of Justice ("DOJ"), which encompasses the Board of Immigration Appeals ("BIA") and immigration judges as part of its sub-agency, the Executive Office for Immigration Review ("EOIR"). He is empowered to oversee the adjudication of removal and bond hearings and by regulation has delegated that power to the nation's immigration judges and the BIA. He is named in his official capacity.

EXHAUSTION

16. Petitioner is not required to exhaust administrative remedies. Exhaustion for habeas claims is prudential, not jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). The prudential exhaustion requirement may be waived if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury will result." *Id.* at 1000.

17. Administrative remedies would be futile, inadequate, and not efficacious for L.C.V. Even if she had some administrative avenue to pursue, exhausting her constitutional claim there would be futile because the immigration courts and the BIA do not have the authority to rule on constitutional questions. *See Wang v. Reno*, 81 F.3d 808, 815-16 (9th

Cir. 1996) (per curiam) ("the inability of the INS to adjudicate the constitutional claim completely undermines most, if not all, of the purposes underlying exhaustion").

STATEMENT OF FACTS

L.C.V. experienced physical and [redacted], only to experience further violence upon arriving in the United States

18. L.C.V. is a twenty-five-year-old single mother who fled years of abuse and violence in her home country of Honduras. *See* Authenticating Decl. of Counsel, Exhibit ("Exh.") A, Decl. of L.C.V. She and her siblings were raised by their mother after her father left due to drug addiction. *Id.* ¶ 6. By the time L.C.V. was nine years old, her mother started physically abusing her. *Id.* L.C.V.'s [redacted].

19. [redacted]

20. At thirteen, L.C.V. met a twenty-five-year-old man, Denis; at fourteen, she moved in with him to escape her mother's abuse. *Id.* ¶ 9. [redacted]. *Id.* L.C.V. quickly became pregnant with her first daughter, [redacted]. [redacted] was born premature and with a heart condition, requiring

daily medication. *Id.* The abuse was so bad that L.C.V. fled Denis's house with her infant daughter and went back to her mother. *Id.*

21. When L.C.V. was pregnant with her second daughter, she moved in with her sister Jennifer and their cousin Luis Joel in another town to look for work. *Id.* ¶ 10. Less than a year later, [redacted]

22. Eventually, L.C.V. moved to Tegucigalpa. *Id.* ¶ 11. L.C.V. found work in a tortilla factory and was trying to stabilize her life and provide for her daughters. *Id.* There, L.C.V. encountered [redacted]

23. [redacted]

24. L.C.V. entered the United States without inspection on or about July 2, 2023. *See* Exh. D, (Notice to Appear) at 1. She was apprehended by Customs and Border Patrol ("CBP") in Laredo, Texas. *See* Exh. C (Custody Determination, July 4, 2023) at 1. CBP then released L.C.V. on her own recognizance and she went to live with relatives in Oakland,

California, and immediately started looking for work. Exh. C; *see also* Exh. A, ¶ 13. She was placed in immigration removal proceedings. *See* Exh. D.

25. On August 23, 2023, around 9 p.m., L.C.V. was shot in the leg while walking with friends at the Fruitvale BART station. *Id.* ¶ 14. She was hospitalized and released, but blood clots formed that required immediate operation and a longer hospital stay. *Id.* This unexpected injury was an impediment to L.C.V.'s ability to find gainful employment from the very start of her life in the U.S. *Id.* In August 2024, L.C.V. filed a U Visa petition, a form of immigration relief for noncitizens who report serious crimes to the police. Her petition is pending. *See* Exh. F (U Visa Receipt Notice).

26. L.C.V. was twenty-three-years old at the time. *Id.* ¶ 15. Her mother started pressuring her to send money back to Honduras for her oldest daughter's medical care. *Id.* A cousin with whom L.C.V. was living in Oakland had taken care of some of her expenses while recovering from the gunshot injury, but suddenly demanded that she repay him thousands of dollars. *Id.* The pressure was immense.

L.C.V.'s criminal arrests

27. On October 3, 2023, L.C.V. was arrested and charged with selling drugs in San Francisco. *Id.* ¶ 16. These charges were ultimately dismissed by the prosecution. *Id.* When L.C.V. attended a hearing in her case, federal marshals arrested her at the courthouse. *Id.* The San Francisco District Attorney then dismissed her state charges and the U.S. Attorney filed federal drug sales charges. *Id.*

28. Due to mounting stress and financial pressures, L.C.V. started using drugs in early 2024, including fentanyl. *Id.* ¶ 15. In August 2024, L.C.V. was arrested again for possession of drugs for sale charges when police raided the house where she had been living with her then-boyfriend. *Id.* ¶ 16. She was released and her case is still pending. *Id.* In October

2024, L.C.V. was again arrested in San Francisco and charged with drug sales. *Id.* This case is also pending. *Id.*

29. [redacted]. *Id.*

30. In April 2025, L.C.V. gave up drugs and has been sober since. *Id.* ¶ 27. Sometime after, L.C.V. was arrested on a warrant, then released from Marshals custody when prosecutors dismissed her case. *See* Exh. E (I-213) at 2. ICE arrested her immediately upon release from Marshals custody. *Id.* ("SUBJECT was released from custody of US Marshalls (*sic*) in San Francisco, CA. A Deportation Officer arrested SUBJECT at 450 Golden Gate Ave."). L.C.V. has been detained at CCDF since. Exh. A, ¶ 3. Due to being detained, she has been unable to address her other pending criminal cases. L.C.V.'s criminal defense attorney is seeking mental health diversion for her. Exh. A, ¶ 17. L.C.V. has no convictions anywhere in the world.

Psychological toll of a life of abuse

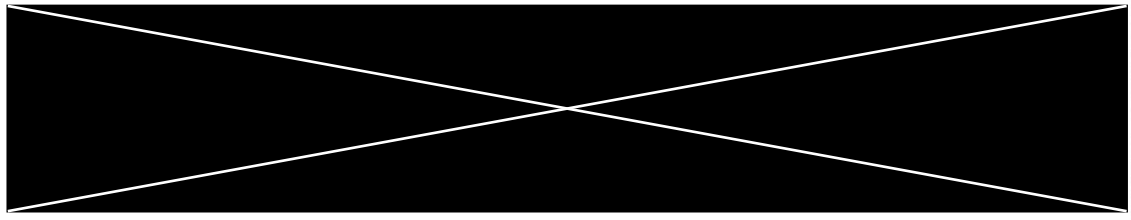
31. **"There has literally never been a time in [L.C.V.'s] life where she has not been victimized and preyed upon."** See Exh. B, Psychological Assessment, Dr. Amana Ayoub, at 3. In a February 5, 2026, psychological assessment by Dr. Amana Ayoub, L.C.V. has diagnoses of chronic complex Posttraumatic Stress Disorder ("C-PTSD"), severe Major Depressive Disorder, and Panic Disorder. *Id.* at 3. L.C.V. scored an 85—*the highest possible score*—on the PTSD Checklist and presents with symptoms of severe anxiety and depression along with a "chronic, elevated degree of distress." *Id.* at 5. Having "never experienced a time in her entire life where she felt safe and in control of

her surroundings . . . she is now an adult, but emotionally and cognitively is extremely stunted." *Id.*

32. Dr. Ayoub evaluated C-PTSD as L.C.V.'s "primary" diagnosis "because every condition related to it—the depression, the anxiety, the deep distrust—is related to the violence she has experienced." *Id.* at 9. L.C.V. has experienced chronic traumas that have a "cumulative devastating effect upon the trauma survivor's ability to cope and rebound from subsequent stressors." *Id.* L.C.V. admitted that she had felt like hurting herself many times and as early as when she was in elementary school. *Id.* Moreover, the thought of being sent back to Honduras is "extremely distressing" for L.C.V. as it is where the bulk of the violence and abuse occurred and where threats still exist. *Id.* at 12.

33. [redacted]

34. [redacted]



35. Upon release, L.C.V. would live at Cameo House in San Francisco, a women's and children's residential program operated in partnership with the San Francisco Sheriff's Office, and where she would receive trauma-informed care and supportive services. Exh. A, ¶ 28. The program is a long-term residential program with stays of 12 to 18 months.

ICE detention and Deplorable Conditions at California City Detention Facility

36. L.C.V. was arrested and re-detained by ICE on August 28, 2025, upon her release from U.S. Marshals custody. See Exh. E (I-213). She has been detained at CCDF since, a for-profit detention center operated by a private prison company, CoreCivic. The building was previously used as a California prison, and it was converted to a detention center for use by ICE in late summer of 2025.

37. L.C.V. reports that the conditions at CCDF are *worse* than what she experienced in federal criminal custody. Exh. A, ¶ 20. The food is noticeably lower quality and, unlike in federal custody, when detained individuals ask to see a doctor, guards almost never bring them to a doctor. *Id.* Around three months ago, L.C.V. asked to see a doctor for an allergic reaction on her arm but was never provided any medical attention. *Id.* ¶ 19. She still has the rash on her arm and has never been seen by a medical provider or given any medication. *Id.* Another time, when she was ill, they told her just to take a medication for cramps rather than bringing her to the doctor. *Id.*

38. L.C.V also has experienced unsanitary conditions at CCDF. She reports that guards do not provide sufficient supplies, and often she has to use her wash cloth instead of toilet paper or a sanitary pad. *Id.* ¶ 22 ("Sometimes there are not enough toilet paper or sanitary pads. Sometimes we have to use the wash cloth instead of toilet paper or pads."). Guards

also do not provide enough shampoo and the showers and bathrooms are very dirty. *Id.* ¶¶ 21, 22. L.C.V. also does not receive enough clothing from the facility. *Id.* ¶ 22 ([redacted]

[redacted]

Despite being located in the desert, a week went by where the air conditioning did not work and CCDF did not make repairs. *Id.* ¶ 23 ("We tried to stay cool by showering multiple times a day but there is only so much you can do to stay cool."). L.C.V. also went without any light in her dormitory for multiple weeks before CCDF made repairs. *Id.*

39. As L.C.V. has limited English proficiency, she finds it hard to communicate with the guards, as they usually only speak English. *Id.* ¶ 24. L.C.V. was never told that there were any programs, therapy, or enrichment opportunities available at CCDF. *Id.* at ¶ 26. Instead, she works five days a week cleaning bathrooms and earns a paltry $1 per day.[2] *Id.*

40. L.C.V.'s descriptions of the squalid conditions at CCDF are consistent with other reports. People detained at CCDF have reported being "treat[ed] like a bunch of animals."[3] They are forced to "walk in straight lines with hands behind their backs to the razor wire-

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[2] *See* Pasternak, Douglas S., "Private Profiteers: How ICE Detention Center Contractors Exploit Immigrant Detainees with $1 Per Day Pay," PUBLIC CITIZEN (May 13, 2026), https://www.citizen.org/article/ice-detention-center-profiteers/. Plaintiffs have prevailed on the argument that this practice is unlawful in other ICE detention facilities in California.

[3] Levin, Sam, "'Hell on earth': immigrants held in new California detention facility beg for help," THE GUARDIAN (Sept. 27, 2025), https://www.theguardian.com/us-news/2025/sep/27/immigrants-california-detention-facility.

enclosed 'yard.'"[4] Those who need medical care are told to stop fighting their cases and "go back" to their countries to receive it.[5] Those who protest these conditions of confinement "are punished with pepper spray and prolonged solitary confinement, a recognized form of torture."[6] One person who was previously incarcerated at CCDF when it was a prison shared, "I had more freedom as a prisoner [at CCDF] than I have right now [as an immigration detainee]."[7]

41. Last November, a monitoring agency authorized under federal and state law to inspect detention facilities found that CCDF "Fails to provide access to critical medical and mental health care; Fails to process and address disability-related requests in a timely manner; Fails to meet people's basic needs, including adequate food, water, and clothing; Employs staff who harass detainees, and; Utilizes solitary confinement unnecessarily."[8] Elected officials and government agencies who have inspected CCDF have also expressed alarm. The California Department of Justice described conditions as "dangerous and inadequate."[9] Senator Schiff recounted, "When you walk inside these

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[4] Uranga, Rachel, "Immigrants decry conditions at former prison, ICE's largest detention center in California," LOS ANGELES TIMES (Sept. 29, 2025), https://www.latimes.com/california/story/2025-09-29/detainees-protest-at-californias-largest-and-newest-immigration-detention-center.

[5] Peleg, Oren, "The Cruel Conditions of ICE's Mojave Desert Detention Center" THE NEW YORKER (Jan. 28, 2026), https://archive.is/hHhJA.

[6] Shuham, Matt and Jessica Schulberg, "ICE Detention is 'Hell On Earth.' Trump Has A Plan To Keep Even More People Locked Up," HUFFPOST (Mar. 7, 2026), https://www.huffpost.com/entry/trump-plan-ice-warehouses_n_69a9ffd4e4b066e4081e3fe2. *See also* Flores, Jessica, "Detained immigrants protest over conditions inside newly opened California City ICE facility," SAN FRANCISCO CHRONICLE (Sept. 25, 2025), https://www.sfchronicle.com/california/article/california-city-ice-facility-protest-21067617.php.

[7] Levin, Sam, THE GUARDIAN.

[8] Disability Rights California, "Newly Opened California City DHS Detention Facility: Dangerous for Disabled People" (Nov. 3, 2025), https://www.disabilityrightsca.org/reports/california-city-ice-processing-center-a-dangerous-expansion-of-immigration-detention-in.

[9] Letter RE: California City Detention Facility (CCDF) Preliminary Findings from Att'y Gen. Rob Bonta to Kristi Noem, et al. (Dec. 19, 2025), https://oag.ca.gov/system/files/attachments/press-docs/2025 (letter to Respondents "regarding the dangerous and inadequate living conditions" at CCDF").

walls, you experience a different trauma," and Senator Padilla left CCDF "even more concerned than [he] was when [he] arrived."[10] Representative Ro Khanna lamented, "I don't think people understand the inhumanity . . . I didn't understand it myself until I went and saw it myself."[11] Another court in this district has described conditions at CCDF as "inherently harsh." *See Doe v. Chestnut*, 810 F. Supp. 3d 1169, 1201 (E.D. Cal. 2025).

LEGAL FRAMEWORK

I. Respondents re-detained L.C.V. in violation of her Fifth Amendment Due Process rights.

42. *Before* Respondents detained her, L.C.V. was entitled to a constitutionally compliant pre-deprivation hearing wherein the government would bear the burden of proving that her detention was necessary due to danger or an unmitigable risk of flight. She received no such hearing.

A. Procedural Due Process requires a pre-deprivation hearing to determine whether L.C.V. is a flight risk or danger such that re-detention is warranted.

43. Courts examine procedural due process claims "in two steps: the first asks whether there exists a protected liberty interest under the Due Process Clause, and the second examines the procedures necessary to ensure any deprivation of that protected liberty interest accords with the Constitution." *Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, at *2 (E.D. Cal. July 14, 2025) (citing *Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989)).

i. L.C.V. possesses a protected liberty interest.

[10] Mejia, Brittany and Ruben Vives, "U.S. Senators tour California City ICE facility, decry conditions and inadequate medical care," LOS ANGELES TIMES (Jan. 20, 2026), https://www.latimes.com/california/story/2026-01-20/u-s-senators-tour-california-city-detention-center-decry-conditions-inadequate-medical-care.

[11] Henricks, Tyche, "Bay Area Congressman Ramps Up Push to Bring ICE Detention Conditions to Light," KQED (Jan. 28, 2026), https://www.kqed.org/news/12071297/bay-area-congressman-ramps-up-push-to-bring-icedetention-conditions-to-light.

44. First, L.C.V. has a protected liberty interest in her freedom from immigration detention. "[T]he Due Process Clause applies to all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 693, 690 (2001). "The liberty of a parolee," "by whatever name," is valuable and must be seen as within the protection of the [Due Process Clause]." *See Morrisey v. Brewer*, 408 U.S. 471, 482 (1972). "Even when a statute allows the government to arrest and detain an individual, a protected liberty interest under the Due Process Clause may entitle the individual to procedural protections not found in the statute." *J.L.R.P. v. Wofford*, No. 1:25-CV-01464-KES-SKO (HC), 2025 WL 3190589, at *8 (E.D. Cal. Nov. 14, 2025) (finding noncitizen with final removal order who was detained, previously released, and then years later re-detained while pursuing withholding and deferral of removal had a protected liberty interest). And, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). District courts have overwhelmingly found that noncitizens on conditional release have a liberty interest in freedom from physical constraint—and have ordered immediate release as a result. *See, e.g., J.L.R.P. v. Wofford*, No. 1:25-CV-01464-KES-SKO (HC), 2025 WL 3190589, at *8 (E.D. Cal. Nov. 14, 2025); *Moises V. A. v. Wofford*, No. 1:25-CV-01419-SKO (HC), 2026 WL 252237, at *4 (E.D. Cal. Jan. 30, 2026); *Hurtado v. Warden, California City Corr. Ctr.*, No. 2:26-CV-1210-DC-JDP, 2026 WL 1257288, at *5 (E.D. Cal. May 7, 2026), report and recommendation adopted, No. 2:26-CV-01210-DC-JDP (HC), 2026 WL 1469801 (E.D. Cal. May 26, 2026); *Labrador-Prato v. Noem*, 815 F. Supp. 3d 1113, 1123 (E.D. Cal. 2025); *Lopez v. Lyons*, No. 2:25-CV-03174-DJC-CKD, 2025 WL 3124116, at *3 (E.D. Cal. Nov. 7, 2025); *Garcia*

Mariagua v. Chestnut, No. 1:25-CV-01744-DJC-CSK, 2025 WL 3551700, at *3–*4 (E.D. Cal. Dec. 11, 2025).

45. L.C.V.'s criminal arrests do not diminish her liberty interest. *See, e.g.*, *Moises V. A. v. Wofford*, 2026 WL 252237, at *2 (ordering ICE to release petitioner and grant a pre-deprivation hearing despite "numerous" criminal arrests); *Peralta Ayala v. Wofford*, No. 1:26-CV-00555-DJC-AC, 2026 WL 249567, at *2 (E.D. Cal. Jan. 30, 2026) (same but with one arrest); *Elias C.M., v. Warden of GSA*, No. 1:25-CV-02043-TLN-EFB, 2026 WL 127612, at *4 (E.D. Cal. Jan. 16, 2026) (same); *Kervis v. Chestnut*, No. 1:25-CV-2066-KES-SAB (HC), 2026 WL 88983, at *1 (E.D. Cal. Jan. 12, 2026) (same); *Roa v. Albarran*, No. 25-CV-07802-RS, 2025 WL 2732923, at *1 (N.D. Cal. Sept. 25, 2025) (same, where petitioner also received a misdemeanor conviction); *Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO (HC), 2025 WL 2617256, at *2 (E.D. Cal. Sept. 9, 2025) (same, as to conviction); *Garcia v. Andrews*, No. 2:25-CV-01884-TLN-SCR, 2025 WL 1927596, at *1 (E.D. Cal. July 14, 2025) (same, as to arrest); *Hurtado v. Warden, California City Corr. Ctr.*, 2026 WL 1257288, at *5, report and recommendation adopted, 2026 WL 1469801 (same as to arrest where pending case for cocaine possession). Due process requires that Petitioner receive a neutral hearing *before* the government deprives him of her liberty. *See Zinermon v. Burch*, 494 U.S. 113, 127 (1990). L.C.V. has pending, open criminal cases, but no convictions in the United States. She is similarly situated to the above petitioners.

46. After arriving in the U.S. in July 2023, L.C.V. was detained by ICE and released on her own recognizance. *See* Exh. C. Respondent's initial custody decision enabled L.C.V. to live at liberty for over two years. She thus has a substantial and protected liberty interest. *See Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1029–30 (N.D. Cal. 2025)

(recognizing that "the liberty interest that arises upon release [from immigration detention] is *inherent* in the Due Process Clause").

ii. Petitioner is entitled to a pre-deprivation hearing under Mathews.

47. The *Mathews* test governs what process is due by balancing: (1) the private interest threatened by government action; (2) the risk of erroneous deprivation of such interest, and the probable value of additional procedural safeguards; and (3) the government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Courts in this district have applied *Mathews* to hold that a a pre-deprivation hearing is required where, as here, a noncitizen acquired a liberty interest after initially being released from immigration custody. *See, e.g.*, *J.L.R.P. v. Wofford*, 2025 WL 3190589, at *9–*10 (weighing *Mathews* factors and finding that petitioner is entitled to a bond hearing, "which should have been provided before he was detained"); *Moises V. A. v. Wofford*, 2026 WL 252237, at *5 (same); *Garcia Mariagua v. Chestnut*, No. 1:25-CV-01744-DJC-CSK, 2025 WL 3551700, at *2 (finding likelihood of success on merits for due process claim); *Lopez v. Lyons*, No. 2:25-CV-03174-DJC-CKD, 2025 WL 3124116, at *3 (same).

48. For the reasons set forth, *see infra* section II.A, the three *Mathews* factors weigh strongly in L.C.V.'s favor.

49. Generally, "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). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context). Due process necessarily applies with equal force in the immigration context; indeed, there is no "other

beforehand or immediately afterwards in front of a neutral decisionmaker, when a judge has previously ordered that person released," not "[e]ven parolees." *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d at 1026. Due process dictates that before Respondents could lawfully re-detain L.C.V., she was entitled to a hearing. Her detention is thus unlawful.

II. At a minimum, L.C.V. is entitled to a bond hearing where the government bears the burden of showing she is a flight risk and danger.

50. L.C.V. is, at a minimum, entitled to a bond hearing where the government bears the burden of justifying her detention by clear and convincing evidence.

A. <u>L.C.V.'s civil detention is unreasonably prolonged under *Mathews*.</u>

51. L.C.V. has a profound interest in freedom from physical confinement. "'It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.'" *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Due process "prohibits arbitrary deprivations of liberty," *Demore*, 583 U.S. at 312 (Kennedy, J., concurring)—including detention that that is unnecessary to mitigate danger or flight risk, *see Zadvydas*, 533 U.S. at 690.

52. While the Supreme Court upheld the mandatory detention of a noncitizen in *Demore*, it did so based on the Court's understanding that detentions under Section 1226(c) are typically "brief." *Demore*, 538 U.S. at 522 n.6, 528. However, when detention becomes prolonged, due process requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

53. Courts have repeatedly held that due process requires the government provide bond hearings to noncitizens facing prolonged "mandatory" detention. *See Black v. Decker*, 103 F.4th 133, 159 (2d Cir. 2024) ("[W]e conclude that the Fifth Amendment's guarantee

of due process precludes a noncitizen's unreasonably prolonged detention under section 1226(c) without a bond hearing."); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020); *Reid v. Donelan*, 17 F.4th 1, 8 (1st Cir. 2021). Courts in this district routinely entertain as-applied challenges to prolonged detention, apply *Mathews*, and grant a bond hearing. *See, e.g., Marroquin v. Chestnut*, No. 1:25-CV-01798-EPG-HC, 2026 WL 629695, at *5 (E.D. Cal. Mar. 6, 2026) (ordering bond hearing in 1226(c) context); *Flores v. Warden of California City Det. Facility*, No. 1:26-CV-00761-KES-EPG-HC, 2026 WL 923802, at *7 (E.D. Cal. Apr. 6, 2026) (same), *report and recommendation adopted sub nom. Flores v. Warden of the California City Det. Facility*, No. 1:26-CV-00761-KES-EPG (HC), 2026 WL 1035148 (E.D. Cal. Apr. 16, 2026); *A.E. v. Andrews*, No. 1:25-cv-00107-KES-SKO (HC), 2025 WL 1424382 (E.D. Cal. May 16, 2025) (applying *Mathews* test to determine whether due process entitled petitioner to a bond hearing in § 1225(b) context), *findings and recommendations adopted*, 2025 WL 1808676 (E.D. Cal. July 1, 2025).

54. Since *Jennings v. Rodriguez*, 138 S.Ct. 830, 837 (2018), courts have evaluated as-applied constitutional challenges to prolonged immigration detention using the *Mathews* balancing test. *See Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (assuming without deciding that *Mathews* applied); *Diep v. Wofford*, No. 1:24-CV-01238-SKO (HC), 2025 WL 604744 (E.D. Cal. Feb. 25, 2025) (applying the *Mathews* test and ordering a bond hearing for noncitizen detained for 13 months); *Hilario M.R. v. Warden, Mesa Verde Det. Ctr.*, No. 1:24-CV-00998-EPG-HC, 2025 WL 1158841 (E.D. Cal. Apr. 21, 2025) (applying *Mathews* and ordering a bond hearing); *see also Tzafir v. Bondi*, No. 25-CV-2070-JHC-GJL, 2025 WL 3724708, at *2 (W.D. Wash. Dec. 24, 2025) (applying *Mathews* and ordering release). "Ultimately, *Mathews* remains a flexible test that can and

must account for the heightened governmental interest in the immigration detention context." *Diaz v. Garland*, 53 F.4th at 1206.

55. Here, where L.C.V. has *never* received any individualized evaluation of her re-detention, the *Mathews* factors weigh overwhelmingly in her favor.

i. L.C.V. has a significant private interest in liberty

56. L.C.V.'s private interest "is the most significant liberty interest there is—the interest in being free from imprisonment." *See Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024) (cleaned up). L.C.V. has been detained without a bond hearing since August 28, 2025, after being released pre-trial from federal criminal custody and immediately arrested by ICE upon release. L.C.V.'s private interest in being at liberty with her community in the Bay Area is strong. *See Diouf v. Napolitano (Diouf II)*, 634 F.3d 1081, 1091–92 (9th Cir. 2011), *abrogated on other grounds by Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022) ("When detention crosses the six-month threshold and release or removal is not imminent, the private interests at stake are profound."). Given good-faith appellate challenges to removal and pending relief applications, L.C.V. will remain detained for many more months, if not years.

57. Moreover, punitive conditions at CCDF "multiply the burden" on L.C.V.'s liberty and strengthen her private interest. *See Doe v. Becerra*, 732 F. Supp. 3d 1071, 1089 (N.D. Cal. 2024). L.C.V. is being held in conditions no different, or even worse, than a criminal prison at a *civil* detention center—operated by a private corporation—with reported abusive conditions. "[T]he government's choice to detain noncitizens like [L.C.V.] in a crowded facility, with operations outsourced to a private contractor, informs the due process consideration of how long is too long." *See id.* As the Third Circuit explained, if a "[noncitizen's] civil detention under § 1226(c) looks penal, that tilts the scales toward finding the detention unreasonable," and, as "the length of detention grows, so does the

weight" given to that factor. *German Santos*, 965 F.3d 203 at 211. Given the penal qualities of L.C.V's detention, her interest in liberty only grows stronger every day she remains in ICE custody.

ii. The value of the procedural safeguard of a bond hearing is high

58. The second prong of the *Mathews* test, the risk of erroneous deprivation of such interest through the procedures used and the probable value of additional procedural safeguards, weighs heavily in L.C.V.'s favor. 424 U.S. at 335.

59. "[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is substantial." *Diouf II*, 634 F.3d at 1092. Conversely, "the probable value of additional procedural safeguards, i.e., a bond hearing, is high, because Respondents have provided virtually no procedural safeguards." *Diep*, 2025 WL 604744, at *5 (granting habeas petition for person who had been detained for over one year without a bond hearing).

60. Here, L.C.V. has been detained for over ten months with no neutral review of whether her detention serves any valid purpose. She was *released* by a federal court only for ICE to detain her. With a recent removal order, L.C.V. will be detained indefinitely pending applications for relief and appellate proceedings challenging the removal order.

61. Without a bond hearing, Respondents have not justified L.C.V.'s civil detention by showing that she is a danger to the community or a flight risk, but instead, have held her indefinitely. L.C.V. is neither a danger to the community nor a flight risk, and, but for her immigration status, would be at liberty. "[T]he probable value of additional procedural safeguards—an individualized evaluation of the justification for his detention—is high[.]." *Jimenez v. Wolf*, No. 19-CV-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020) (granting habeas petition for noncitizen who had been detained for one year without a bond hearing).

iii. Respondents have no valid interest that would be harmed by a hearing

62. The third *Mathews* factor additionally supports L.C.V.'s petition: the instant government interest is weak because the interest at stake "is the ability to detain Petitioner *without providing [her] a bond hearing*, not whether the government may continue to detain him at all." *See Lopez-Reyes v. Bonnar*, 362 F. Supp. 3d 762, 77 (N.D. Cal. Jan. 29, 2019). As the government has conceded in similar cases, the cost of providing such a bond hearing is minimal. *See id.*; *Singh v. Barr*, Case No. 18-cv-2471- GPC-MSB, 2019 WL 4168901, at *12 (Even where the petitioner already had one bond hearing, "[t]he government has not offered any indication that a second bond hearing would have outside effects on its coffers"). In any event, it is "always in the public interest to prevent the violation of a party's constitutional rights." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Sammartano v. First Judicial Dist. Court,* 303 F.3d 959, 974 (9th Cir. 2002)). While the government has legitimate interests in ensuring a noncitizen's appearance in court and protecting the community, providing a noncitizen with a bond hearing would "do nothing to undercut those interests." *Black*, 103 F.4th at 153.

63. Nor can the minimal cost of providing a hearing override the public interest in avoiding needless civil detention. As the Court reasoned in *Black*, "having to do something instead of nothing imposes an administrative and fiscal burden of some kind. But the Department of Justice reported an average cost of detaining noncitizens, in 2019, of $88.19 per prisoner per day . . . So, retaining and housing detainees imposes substantial costs as well. And, as far as we can tell, ICE may readily access the records of other law enforcement agencies for information bearing on its case for detention where necessary." *Black*, 103 F.4th at 154. Moreover, requiring Respondents to justify L.C.V.'s detention "promotes the Government's interest—one [courts] believe to be paramount—in

minimizing the enormous impact of incarceration in cases where it serves no purpose." *See id.* at 154 (noting that "the public interest drives analysis of the third factor").

64. All three *Mathews* factors favor L.C.V. and compel a grant of habeas relief.

B. Standards For A Bond Hearing Must Comply With Due Process

65. L.C.V. requests that the Government release her, unless she is given a bond hearing before a neutral adjudicator at which the government bears the burden of proving flight risk or danger by a clear and convincing evidence standard. *See Singh v. Holder*, 638 F.3d 1196,1204 (9th Cir. 2011) ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake…are both particularly important and more substantial than mere loss of money.") (internal quotation marks omitted); *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024) ("the BIA properly noted that the government bore the burden"); *Ixchop Perez v. McAleenan*, 435 F. Supp. 3d 1055, 1062 (N.D. Cal. 2020) (noting the "consensus view" among District Courts concluding that after *Jennings* "where ... the government seeks to detain an alien pending removal proceedings, it bears the burden of proving that such detention is justified); *Marroquin v. Chestnut*, No. 1:25-CV-01798-EPG-HC, 2026 WL 629695, at *7 ("follow[ing] the overwhelming majority of courts that have held that the government must justify the continued confinement of a non-citizen").

66. Due process further requires consideration of alternatives to detention. The two regulatory purposes of immigration detention are to protect the community and ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to these purposes if there are alternative conditions of release that could mitigate flight risk or danger. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program—has achieved extraordinary success in ensuring appearance at removal

proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017).

67. Finally, due process requires consideration of a noncitizen's ability to pay a monetary bond. "Detention of an indigent 'for inability to post money bail' is impermissible if the individual's 'appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Hernandez v. Sessions*, 872 F.3d 976 at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). It follows that—in determining the appropriate conditions of release for immigration detainees— due process requires "consideration of financial circumstances and alternative conditions of release" to prevent against detention based on poverty. *Id.*

C. *Matter of Yajure Hurtado* Does Not Bar L.C.V. From Receiving a Bond Hearing

68. Of late, Respondents have argued that individuals like L.C.V. are subject to mandatory immigration detention under 8 U.S.C. § 1225(b). This argument is unavailing for L.C.V., as Respondents' new policy is contrary to statute and the Constitution, and L.C.V. was expressly released by Respondents under their § 1226(a) authority. *See* Exh. C at 1 ("Pursuant to the authority contained in section 236 of the Immigration and Nationality Act [8 U.S.C. § 1226] and part 236 of title 8, Code of Federal Regulations, I have determined that, pending final administrative determination in your case, you will be Released On your own recognizance."); *see also* 8 C.F.R. § 236.1; 8 U.S.C. § 1226(a).

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

70. Second, the INA provides for mandatory detention of noncitizens subjected to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).

71. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

72. Following the enactment of the IIRIRA in 1996, EOIR drafted new regulations applicable to proceedings before IJs explaining that, in general, people who entered the country without inspection – also referred to as being "present without admission" – were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

73. Thus, in the decades that followed, most noncitizens who entered without inspection and were placed in standard § 1229a removal proceedings received bond hearings before IJs, unless their criminal history rendered them ineligible pursuant to § 1226(c). That practice was consistent with many more decades of practice prior to IIRIRA, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

74. On July 8, 2025, ICE, "in coordination with" the Department of Justice, announced a new policy that 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,"[12] claims that all noncitizens who entered the United States without inspection shall now be deemed "applicants for admission" and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

75. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Board held that all noncitizens who entered the United States without admission or parole are subject to mandatory detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. *Id.* at 228.

76. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE. *See, e.g.*, *Rodriguez Vazquez v. Bostock*, 2025 U.S. Dist. LEXIS 193611, at *87 (W.D. Wash. Sep. 30, 2025).

77. Subsequently, the U.S. District Court for the Central District of California considered the same issue and granted partial summary judgment on behalf of individual plaintiffs and later certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 233085, at *25 (C.D. Cal. Nov. 20, 2025) and *Maldonado Bautista v. Santacruz*, --- F. Supp. 3d ----,

[12] *Available at*: https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents.

2025 U.S. Dist. LEXIS 231977, at *26-27 (C.D. Cal. Nov. 25, 2025). The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 U.S. Dist. LEXIS 233085, at *25.

78. Nonetheless, EOIR, its subagency the Immigration Court, and DHS have blatantly refused to abide by the declaratory relief and have unlawfully ordered that noncitizen class members be denied the opportunity to be released on bond. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

79. Court after court has rejected ICE and EOIR's new interpretation, including in at least ten cases in the Eastern District of California.[13] Numerous courts have rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Maldonado Bautista* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

80. Moreover, courts in this district have found that where Respondents previously released a noncitizen under section 1226(a), Respondents cannot now argue that their detention is

[13] *See Flores v. Cruz*, No. 1:26-CV-01038 DC SCR, 2026 WL 575545, at *4 (E.D. Cal. Mar. 2, 2026); *Sanchez Ramirez v. Noem*, No. 1:26-CV-01270-DAD-EFB (HC), 2026 WL 1133444, at *3 (E.D. Cal. Apr. 27, 2026), *report and recommendation adopted in part,* No. 1:26-CV-01270-DAD-EFB, 2026 WL 1715113 (E.D. Cal. June 12, 2026); *Galvan v. Noem*, 2026 U.S. Dist. LEXIS 12892, at *11 (E.D. Cal. Jan. 23, 2026); *Perez v. Lyons*, 2026 U.S. Dist. LEXIS 11164, at *14 (E.D. Cal. Jan. 20, 2026); *Sarfaraz v. Murray*, 2026 U.S. Dist. LEXIS 9176, at *18-19 (E.D. Cal. Jan. 15, 2026); *Banos v. Chestnut*, 2026 U.S. Dist. LEXIS 7631, at *11-12 (E.D. Cal. Jan. 14, 2026); *Shoimov v. Chestnut*, 2026 U.S. Dist. LEXIS 1824, at *9-10 (E.D. Cal. Jan. 6, 2026); *Colina-Meira v. Lyons*, 2025 U.S. Dist. LEXIS 268419, at *8-9 (E.D. Cal. Dec. 31, 2025); *Otero v. Robbins*, 2025 U.S. Dist. LEXIS 2644331, at *12-13 (E.D. Dec. 22, 2025); *Quiroz-Martinez v. Chestnut*, 2025 U.S. Dist. LEXIS 262008, at *8-9 (E.D. Dec. 18, 2025); *see also Lopez v. Larose*, 2025 U.S. Dist. LEXIS 214488, at *14 (S.D. Cal. Oct. 30, 2025); *Kumar v. Santacruz*, 2026 U.S. Dist. LEXIS 20469, at *6-7 (C.D. Cal. Jan 26, 2026); *but see, Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) (accepting government's interpretation of § 1225(b)(2)).

governed by section 1225(b)(2). *See Hurtado v. Warden, California City Corr. Ctr.*, No. 2:26-CV-1210-DC-JDP, 2026 WL 1257288, at *1 n.1 (E.D. Cal. May 7, 2026), report and recommendation adopted, No. 2:26-CV-01210-DC-JDP (HC), 2026 WL 1469801 (E.D. Cal. May 26, 2026); *Moises V. A. v. Wofford*, No. 1:25-CV-01419-SKO (HC), 2026 WL 252237, at *2 (E.D. Cal. Jan. 30, 2026) (finding the government's new argument "untenable"); *Labrador-Prato v. Noem*, 815 F. Supp. 3d 1113, 1120 (E.D. Cal. 2025). Since L.C.V. was previously released on her own recognizance under section 1226(a) by Respondents, they cannot now contend that she is mandatorily detained under section 1225(b)(2). To safeguard her statutory and due process rights, L.C.V. must be afforded a bond hearing where Respondents must demonstrate by clear and convincing evidence that she is a flight risk or danger. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also, e.g.*, *Marroquin v. Chestnut*, No. 1:25-CV-01798-EPG-HC, 2026 WL 629695 at *7.

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process—Pre-Deprivation)

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

82. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after her release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination).

83. Accordingly, "[i]n the context of immigration detention, it is well-settled that due process

requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494 U.S. at 127 (explaining that generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property."). In the immigration context, for such hearings to comply with due process, the government bears the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez*, 124 F.4th 785, 786.

84. Petitioner's re-detention without a pre-deprivation hearing violated due process. After deciding to release Petitioner from custody on her own recognizance, Respondents re-detained Petitioner with no opportunity to contest her re-detention before a neutral adjudicator before being taken into custody.

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution, the Immigration and Nationality Act and DHS and EOIR Regulations
(Procedural Due Process—Prolonged Detention)

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

86. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

87. Due process requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotation marks omitted). Detention under § 1231 may become unreasonably prolonged and warrant additional procedural protections. *See Diouf v. Holder*, (Diouf II), 634 F.3d 1081 (9th Cir. 2011).

88. To justify Petitioner's ongoing prolonged detention, due process requires that the government establish, at an individualized hearing before a neutral decisionmaker, that Petitioner's detention is justified by clear and convincing evidence of flight risk or danger, even after consideration whether alternatives to detention could sufficiently mitigate that risk. *See Singh*, 638 F.3d at 1204 ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake…are both particularly important and more substantial than mere loss of money.") (internal quotation marks omitted); *Singh v. Barr*, 400 F. Supp. 3d at 1018 (finding due process requires the government to bear the burden in immigration bond proceedings) *see also Ixchop Perez*, 435 F.Supp.3d at 1062 (noting the "consensus view" among District Courts concluding that after Jennings "where ... the government seeks to detain a [noncitizen] pending removal proceedings, it bears the burden of proving that such detention is justified").

89. L.C.V. has been detained for nearly eleven months with no end in sight. Her detention is thus unreasonably prolonged and violates procedural due process.

90. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens like L.C.V., who have entered and were residing in the United States prior to being arrested, have been placed under § 1229a removal proceedings, and been charged with a ground of inadmissibility, including 8 U.S.C. §§ 1182(a)(6)(A)(i) or (a)(7)(A)(i)(I), by Respondents. Such noncitizens may only be detained pursuant to § 1226(a), unless subject to § 1225(b)(1), § 1226(c), or § 1231.

91. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention without a bond hearing and violates 8 U.S.C. § 1226(a).

92. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a declaration that Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment;
3. Issue a Writ of Habeas Corpus and order Petitioner's immediate release on appropriate conditions;
4. In the alternative, order Respondents to provide Petitioner with a bond hearing before a neutral arbiter where the government bears the burden of proof by clear and convincing evidence of demonstrating that Petitioner is a flight risk or danger to the community, including upon considering mitigation by appropriate conditions of release;
5. Enjoin Respondents from re-detaining Petitioner unless Respondents provide at least 7 days' notice to Petitioner that they will seek a pre-deprivation bond hearing before a neutral arbiter at which Respondents bear the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;
6. Award reasonable costs and attorney fees under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law;
7. Prohibit Petitioner's transfer from this district pending the outcome of this litigation; and
8. Grant such further relief as the Court deems just and proper.

Dated: July 22, 2026

Respectfully submitted,

/s/ Meredith Sullivan
Meredith Sullivan

/s/ Sean Lai McMahon
Sean Lai McMahon
Attorneys for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I and others working in my office have discussed with Petitioner the events described in this Petition. I hereby 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.

Dated: July 22, 2026

/s/ Sean Lai McMahon
Attorney for Petitioner