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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

John DOE,

Petitioner-Plaintiff,

v.

Christopher LAROSE, Warden at Otay Mesa Detention Center, San Diego, California, in his official capacity; Gregory ARCHAMBAULT, San Diego U.S. ICE Field Office Director, in his official capacity; David VENTURELLA, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security, in his official capacity; Markwayne MULLIN, in his Official Capacity, Secretary, U.S. Department of Homeland Security; and Todd BLANCHE, in his Official Capacity, Acting Attorney General of the United States;

Respondents-Defendants.

Case No. '26CV4552 RFL MMP

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration Under Color of Immigration Detention Statutes; Request for Declaratory and Injunctive Relief

INTRODUCTION

1. Petitioner-Plaintiff, John DOE, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief to compel his immediate release from the immigration jail where he is being held by the U.S. Department of Homeland Security ("DHS"), U.S. Immigration and Customs Enforcement ("ICE").

2. For nearly nineteen months, Respondents-Defendants have subjected Petitioner to punitive detention in the form of retaliation (both physical and psychological), denial of necessary medications, and gross medical neglect, without due process of the law. *See* Declaration of Johnny Sinodis ("Sinodis Decl.") at Exs. D, E, K, L, M, P, S, U.

3. Medical providers operating outside of the facilities run by Respondents have identified Petitioner's medical conditions as "urgent," reported that he is now suffering from "medical renal disease," and concluded that Respondents have committed gross medical negligence. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab O); *id.* at Ex. S (Ultrasound Results); *id.* at Ex. P (Dr. Schneberk's Declaration). Despite having numerous opportunities to deny these allegations or rectify their errors, Respondents have done neither.

4. To make matters worse, on July 28, 2026, an Immigration Judge ("IJ") erroneously denied Petitioner's motion for custody redetermination based on materially changed circumstances, misapplying the requisite legal framework and ignoring probative evidence in doing so. Sinodis Decl. at Ex. A (IJ Sameit's Decision dated July 28, 2026). This included Petitioner's: sworn statement and objective corroborating evidence; evidence of full compliance with prior ICE reporting requirements; participation in self-improvement classes; and letters of support from family, friends, community members, and religious institutions. *Id.* at Ex. B (Motion for Custody Redetermination Based on Materially Changed

Circumstances); *id.* at Tab C (Petitioner's Paystubs). The record definitively establishes that Petitioner is not a flight risk or danger to the community and must therefore be released. At a minimum, Petitioner must be provided with an evidentiary hearing to assess—on a current basis—whether his continued incarceration is warranted.

5. Absent intervention from this Court, Petitioner's unconstitutionally prolonged detention will endure indefinitely and his debilitating physical and psychological health conditions will only further atrophy, placing Petitioner at imminent risk of severe outcomes, including possibly death. *Id.* at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab P); *id.* at Ex. P (Dr. Schneberk's Declaration).

6. The Court must therefore grant his petition and complaint and order Petitioner's immediate release from custody. In the alternative, if the Court does not find immediate release to be appropriate, it should order that Petitioner be provided an evidentiary hearing before a neutral adjudicator—this Court—where DHS bears the burden to establish that Petitioner is a current danger or flight risk by clear and convincing evidence.

CUSTODY

7. Petitioner is currently detained by DHS without bond at the Otay Mesa Detention Center in San Diego, California.

JURISDICTION

8. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. § 701 *et seq.*, All Writs Act; 28 U.S.C. § 2241 *et seq.*, habeas corpus; section 504 of the Rehabilitation Act, 29 U.S.C. § 794; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, Cl. 2 of the United States Constitution (Suspension Clause); Art. 3 of the United States Constitution, and the common law, as Petitioner is detained under color of the

authority of the United States, and such custody is in violation of the Constitution, laws, regulations, and, or treaties of the United States.

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, section 504 of the Rehabilitation Act, 29 U.S.C. § 794, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651, to protect Petitioner's rights under the Due Process Clause of the Fifth Amendment to the United States Constitution, the Excessive Bail Clause of the Eighth Amendment, and under applicable Federal law, and to issue a writ of habeas corpus for his immediate release. *See generally INS v. St. Cyr*, 533 U.S. 289 (2001); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

12. Habeas corpus must remain a swift remedy. Importantly, "the statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action creating the perception "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id.*

VENUE

13. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States, acting in their official capacity; because Petitioner is currently detained in the Southern District of California; and because there is no real property involved in this action.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (*quoting Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).

15. Here, no statutory exhaustion requirements apply to Petitioner's claim of unlawful and punitive custody in violation of the Constitution of the United States and the Rehabilitation Act of 1973.

16. Exhaustion of administrative remedies is not required because they are inadequate, inefficacious, and futile due to the BIA's inability to adjudicate constitutional claims. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

17. Furthermore, the BIA's extensive delays in deciding bond-related appeals would cause Petitioner irreparable harm, particularly in light of his urgent and worsening medical conditions. *See McCarthy v. Madigan*, 503 U.S. 140, 146–47 (1991) (holding that administrative exhaustion is not required where agency delay "may occasion undue prejudice for subsequent assertion of a court action"); *Hernandez*, 872 F.3d at 988-989. Each day of further prolonged detention without

a hearing to determine whether continued incarceration serves any legitimate purpose is a violation of Petitioner's rights. The BIA's indefinite timeline in deciding his appeal would compound the constitutional violation and cause further prejudice to Petitioner. Sinodis Decl. at Ex. W (Declaration of Zabdi J. Salazar).

18. The unique circumstances of Petitioner's case at this particular time, including Petitioner's significant and deteriorating physical and mental condition, warrants waiver of the exhaustion requirement. *See Sahota v. Allen*, No. 20-CV-03180-WHO, 2020 WL 2992872, at *5 (N.D. Cal. June 4, 2020) (citing *De Paz Sales v. Barr*, No. 19-cv-07221-KAW, 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020)). As discussed herein, since being re-arrested, Petitioner has sought medical and mental healthcare, which Respondents have consistently denied, neglected, and retaliated against him for, and he now suffers from renal disease and other severe health issues that were caused by Respondents' medical neglect. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab O p. 125); *id.* at Ex. S (Ultrasound Report from Kern County Medical Hospital). Such significant medical and psychological effects from his detention demonstrate a likelihood of irreparable harm sufficient to excuse prudential exhaustion. *De Paz Sales*, 2020 WL 353465, at *7.

19. Moreover, the BIA's delay in adjudicating bond appeals threatens to prevent noncitizens such as Petitioner from adequately challenging improper denials of release or conditional parole before their challenge becomes moot. The BIA could simply delays its decision until after a merits decision at which he is granted relief and released, or denied relief and deported.

20. Finally, federal courts around the nation have increasingly concluded that bias and partiality are pervasive throughout the Executive Office for Immigration Review ("EOIR"), including at the Immigration Courts and BIA, both of which are subagencies under EOIR. *See generally* Section III.a., *infra*. One court recently stated: "[T]he Court is concerned that the immigration courts are not affording

immigrants fair bond hearings…Based on the observations of fellow judges across the country….the mounting evidence [shows] that bond determination hearings conducted in Immigration Court…have preordained outcomes[.]" *Pal v. Lyons*, 2026 WL 937962, *4 (D. Col. Apr. 7, 2026); *see also Singh v. Hagan*, No. 1:26-cv-01109, slip op. at 10-11 (D. Colo. Apr. 1, 2026); *Juan T.R. v. Noem*, 2026 WL 232015, at *1 (D. Minn. Jan. 28, 2026), *supplemented*, 2026 WL 555601 (D. Minn. Feb. 26, 2026) ("Attached to this order is an appendix that identifies 96 court orders that ICE has violated in 74 cases. . . . ICE has likely violated more court orders in January 2026 than some federal agencies have violated in their entire existence."); *see also Kumar v. Soto*, 2026 WL 585187, at *7, *11 (D.N.J. Mar. 2, 2026) (discussing the government's extensive violations of numerous court orders, "violated at a rate of around three every two weeks"); *D.V.D. v. DHS*, 821 F. Supp. 3d 102 (D. Mass. Feb. 25, 2026), *appeal docketed*, No. 26-1212 (Feb. 28, 2026) (describing at length DHS's violations of the court's orders).

21. For the above reasons, prudential exhaustion concerns should be waived in the interest of justice. *Singh v. Holder*, 638 F.3d at 1203 n.3 (9th Cir. 2011).

PARTIES

22. Petitioner was born in India in 1997. He came to the United States in 2019 fleeing heinous persecution and torture and sought asylum. Respondents have held him in their custody after re-arresting him on January 28, 2025—for nearly nineteen months. Petitioner is currently detained at the Otay Mesa Detention Center and his Individual Calendar Hearing (i.e., immigration trial) has yet to conclude.

23. Respondent Christopher LAROSE is the Warden of Otay Mesa Detention Center where Petitioner is being held. LaRose oversees the day-to-day operations at Otay Mesa and acts at the Direction of Respondents Venturella, Mullen, and Blanche. LaRose is a custodian of Petitioner and is named in his official capacity.

24. Respondent Gregory ARCHAMBAULT is the Field Office Director of ICE, in San Diego, California and is named in his official capacity. ICE is the component of the DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

25. Respondent David VENTURELLA is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Petitioner.

26. Respondent Markwayne MULLIN is the Secretary of the DHS and is named in his official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In his capacity as Secretary, Respondent Mullin has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent Mullin is the ultimate legal custodian of Petitioner.

27. Respondent Todd BLANCHE is the acting Attorney General of the United States and the most senior official in the U.S. Department of Justice ("DOJ") and is named in his official capacity. He has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the EOIR, which administers the immigration courts and the BIA.

STATEMENT OF FACTS

28. Petitioner was born in India in 1997. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based On Materially Changed Circumstances). [redacted]

[redacted]

29. In May 2019, Petitioner fled India after suffering persecution and torture on account of his race, religion, political opinion, and membership in a particular social group. An IJ subsequently determined that he had a credible fear of returning to India. *See* 8 C.F.R. § 1208.30.

30. On October 25, 2019, DHS issued a Notice to Appear ("NTA"), charging Petitioner as a noncitizen present in the United States who has not been admitted or paroled under INA § 212(a)(6)(A)(i).

31. On November 8, 2019, an IJ granted Petitioner bond in the amount of $12,500.

32. On June 30, 2020, Petitioner timely filed a Form I-589, Application for Asylum and for Withholding of Removal, with the Immigration Court. *See* 8 U.S.C. § 1158.

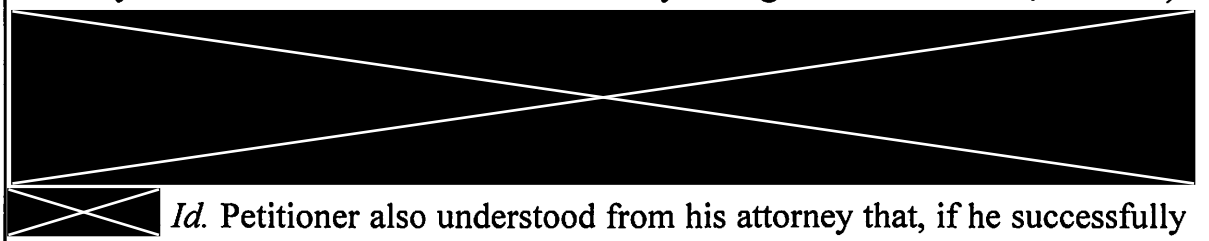
33. In the five years Petitioner was released on bond, he complied with all conditions of his release, including by attending check-ins with ICE, and prepared to present his claims for relief to the Immigration Court.

34. Petitioner lives with serious and severe medical and psychological issues. Due to the extensive persecution and torture he endured in India based on his religious and political activism, he suffers from Complex Post Traumatic Stress Disorder ("CPTSD"), Panic Disorder, Major Depressive Disorder, anxiety, and memory issues. *See* Sinodis Decl. at Ex. D (Forensic Evaluation conducted by Dr. Amana Ayoub, Psy.D.); *id.* at Ex. P (Expert Declaration of Dr. Todd Schneberk, at 3–4). He also suffers from several documented chronic neurological and gastrointestinal ("GI") conditions. *Id.*; *see also id.* at Ex. B (Petitioner's Custody Redetermination Based on Materially Changed Circumstances and the medical evidence filed in support of his motion at Tab O); *id.* at Ex. S (Ultrasound Results from Kern County Hospital); *id.* at Ex. U (Otay Mesa Detention Center Active

Problems list). While out of custody, he received medical treatment for his illnesses and was stable.

35. In September 2022, in Sutter Country, Petitioner was arrested following an employment dispute with his former employer. *See* Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based On Materially Changed Circumstances, at Tab C). He rented a trailer from his former employer, with whom he had a falling out when the former employer refused to pay him for work that Petitioner had already done. *Id.* Petitioner's former employer accused him of stealing the trailer that he had, in fact, rented, and further stated that Petitioner threatened him and his family. *Id.*; *see also id.* at Ex. C (Paystubs Showing Rent Deduced from Paycheck). Law enforcement arrested Petitioner for theft, but did not file any charges for the alleged and uncorroborated threats.

36. In proceedings before the Sutter County Superior Court, as Petitioner explained in his sworn statement filed on July 15, 2026, he accepted a pre-plea diversion agreement because, although he did not steal his employer's trailer, he did not have the financial resources to litigate his case. *Id.* at Ex. B (Motion for Custody Redetermination Based On Materially Changed Circumstances, at Tab C).



Id. Petitioner also understood from his attorney that, if he successfully completed the diversion program—which he did—he would not have any conviction on his record. *Id.*

37. Around that same time, the Indian government obtained an INTERPOL Red Notice against Petitioner. Respondents learned of the Red Notice in February 2023. Petitioner became aware of the Red Notice in March 2024 when DHS filed it with the Immigration Court.

38. In May 2023, during one of Petitioner's check-ins with the ICE Sacramento Field Office, he discussed his September 2022 theft arrest with officers. *Id.* He also later submitted proof to ICE that he successfully completed the Sutter County diversion program, and that the sole charge against him for theft was dismissed. *Id.*

39. Petitioner would continue attending check-in appointments with ICE in Sacramento for the next year-and-a-half. He never missed any appointments.

40. On January 28, 2025, Respondents unlawfully re-arrested Petitioner at his check-in, without providing him notice or a hearing. Respondents' basis for Petitioner's arrest was allegedly due to the then-existent INTERPOL Red Notice obtained by India in 2022 and received by ICE in early 2023.

41. Thereafter, Respondents transferred Petitioner to the Golden State Annex in McFarland, California.

42. When Respondents processed Petitioner into their custody, he provided copies of his medications and his various medical needs. *See* Sinodis Decl. at Exs. D-E (Email Correspondence from Undersigned Counsel to ICE and photos of Petitioner's medications).[1] His prescribed medications were [redacted] which treated his gastroesophageal reflux disease ("GERD"), anxiety, anemia, vertigo, headaches, chronic lower back pain, and lung problems. *See id.*

43. Respondents nevertheless denied Petitioner adequate medical care, and his health quickly began to decline.

44. In February 2025, Petitioner filed a habeas petition and motion for a temporary restraining order in the Eastern District of California. *See Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC (E.D. Cal. 2025).

[1] Petitioner had also previously filed numerous medical records with the Immigration Court prior to his re-arrest.

45.On March 3, 2025, the Honorable Judge Calabretta found that Petitioner's re-arrest violated due process and ordered that he receive a bond hearing where DHS bore the burden by clear and convincing evidence. *Doe v. Becerra*, 787 F.Supp.3d 1083, 1090, 1096 (E.D. Cal. 2025).

46.On March 10, 2025, based on Judge Calabretta's order, IJ Halperin at the Adelanto Immigration Court held a perfunctory custody redetermination hearing for Petitioner and denied bond. The IJ failed to provide any basis for the determination, refused to take testimony from Petitioner, his expert witnesses, and character witnesses, and ignored Petitioner's extensive evidence submitted in advance of the hearing. The extensive evidence showed: (1) that Petitioner was not a flight risk or a danger; (2) that the Red Notice was unreliable and an extension of the persecution and torture that he suffered in India; and (3) that Petitioner was suffering irreparable harm in custody due to his medical and psychological issues. *See* Sinodis Decl. at Ex. G (IJ Halperin's Order dated Mar. 10, 2025). Instead, the IJ determined that DHS had met its burden of "clear and convincing evidence" based on the INTERPOL Red Notice from 2022 and copies of the underlying criminal allegations on which the Red Notice was based. *Id.* These included charges of which Petitioner had *been acquitted* after witnesses testified the police forced them to sign blank pieces of paper, charges based on evidence obtained by police torture, as testified to by numerous witnesses, including Petitioner's mother and brother, and charges that reflect that the Indian government has been stalking and surveilling Petitioner since he fled the country to save his life.

47.On April 8, 2025, IJ Halperin issued a post hoc memorandum that improperly analyzed and mischaracterized Petitioner's criminal history, relied heavily upon uncorroborated allegations from Petitioner's former employer that were never charged and photos of Petitioner with alleged firearms, and faulted Petitioner for not filing a written declaration expressing "remorse," even though

he was not notified that a declaration—as opposed to presenting live testimony—was required. *Id.* at Ex. H (IJ Halperin's Post Hoc Memorandum).

48. On April 3, Petitioner appealed the IJ's decision to the BIA. On August 26, the BIA "affirmed the Immigration Judge's danger finding based solely on the evidence of the respondent's [September 2, 2022] arrest, charge, and participation in a diversion program for vehicle theft, and evidence presented showing the respondent holding firearms." Sinodis Decl. at Ex. I (BIA Decision at 4). The BIA did "not reach the Immigration Judge's alternative findings regarding flight risk." *Id.* at 2.

49. Petitioner thereafter returned to the district court, filing a motion to enforce the Court's March 3 Order because Respondents did not properly apply the burden of proof and prevented Petitioner from presenting testimony. On April 29, 2025, that motion was denied. *Doe v. Becerra*, Case No. 2:25-cv-00647-DJC-DMC, Dkt. 41, slip. op. (E.D. Cal. Apr. 29, 2025).

50. In May 2025, the Commission for the Control of INTERPOL's Files ("CCF") provisionally blocked all member countries' access to data against Petitioner after determining that there were questions concerning the compliance of the data supplied by the government of India with INTERPOL's rules. Sinodis Decl. at Ex. J (Declaration of Sandra A. Grossman). As an INTERPOL member, DHS would have been informed automatically that, as of May 2025, the Red Notice against Petitioner was no longer active. *Id.*

51. In September 2025, Petitioner filed a Supplement to his petition for writ of habeas corpus and complaint for declaratory and injunctive relief. Briefing on the petition concluded on November 13, 2025. *Doe v. Becerra*, Case No. 2:25-cv-00647-DJC-DMC, Dkt. 62 (E.D. Cal. Nov. 13, 2025).

52. Over the next several months, Petitioner's medical condition continued to decline. He developed severe pain, a bloody cough, blood in his urine and stool, mouth sores, and ulcers, all the while his mental health worsened. Sinodis Decl. at

Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab N). He has been hospitalized and taken to the emergency room due to fainting, persistent and unbearable pain, and concerns over internal bleeding. *Id.* (Motion for Custody Redetermination Based on Materially Changed Circumstances at Tabs L-N). Yet, Respondents have repeatedly and consistently denied his requests for medicine and medical care and retaliated against him, even while acknowledging his need for procedures such as colonoscopies and endoscopies. His medical records also reflect that Respondents inexplicably discontinued Petitioner's Ensure drink prescription or only refilled it for days or one week at a time, despite the Ensure drink being approved as a specialized diet due to his health conditions. Sinodis Decl. at Ex. M (Medical Prescription Records from September 2025 to January 2026, and April 2026).

53. On September 3, 2025, Petitioner was transferred to California City Detention Facility. From the outset, the facility deprived him of his medications and necessary medical care. Petitioner began a hunger strike around September 18, 2025, to request medical care. *Id.* at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab M); *see also id.* at Ex. U (Otay Mesa Detention Center Active Problems list reflecting history of hunger strikes). The facility moved him to an isolation cell and informed him that they would *only* provide him with his medication and schedule a GI appointment if he stopped his hunger strike, which he did. *Id.* at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab M). Petitioner lost approximately seven pounds during the hunger strike. *Id.*

54. After the strike, the facility continued denying Petitioner his medication. *Id.* A doctor at the facility informed him that he would not see a GI specialist, and that if he wanted to obtain medical treatment, he should return to India. *Id.*; *see also* Sinodis Decl. at Ex. L (Relevant Portions of Petitioner's California City Medical File) (showing his GI specialist appointments were thereafter cancelled). An

officer violently shoved him after he requested access to the national detention standards guidelines. On October 20, 2025, Petitioner started a second hunger strike, and the facility again moved him to an isolation cell and deprived him of his diet and medication. *Id.*

55. By November 6, 2025, Petitioner had filed approximately fifteen sick call requests with California City. *Id.* He had lost approximately seventeen pounds since arriving at California City. *Id.*

56. On December 1, 2025, Petitioner provided a sworn declaration detailing the medical neglect and retaliation he endured at California City Detention Center, which was filed in support of the class action lawsuit *Ruiz v. ICE*, Case No. 3:25-cv-09757, Dkt. 22-23 (N.D. Cal. Dec. 1, 2025).

57. In late November and early December 2025, undersigned counsel coordinated for an outside medical doctor to visit Petitioner at the California City Detention Facility and evaluate him, which officers at the facility authorized. Sinodis Decl. at Ex. N (Declaration of Valeria Vera).

58. On December 16, 2025, Petitioner started his third hunger strike to request medical treatment and/or transfer to a detention center where he would obtain necessary medical care. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab L). The facility placed him in an isolation cell for about one week. *Id.* While in the cell, the facility did not provide him with medical monitoring, access to a phone, or any outside time. Leadership at California City Detention Facility, including Warden Chestnut, informed Petitioner that, if he did not break the strike, they would transfer him to a facility in Texas or Miami where officers would legally forcibly feed him. *Id.* But, if he broke the strike, officers explained, they would release him from isolation and schedule him to see a GI specialist. *Id.*

59. On December 22, 2025, the outside physician arranged by counsel to visit Petitioner arrived for the pre-approved medical appointment, but the facility denied

the doctor entry despite approving the visit weeks before. Sinodis Decl. at Ex. N (Vera Decl.); *Id.* at Ex. O (Declaration of Oona Cahill).

60. On December 31, 2025, Petitioner broke his hunger strike, but the facility continued holding him in isolation and denied his GI specialist requests. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab L). In addition, guards filed fabricated incident reports against him, which led to severe punishment, medical deprivation, and on one occasion resulted in officers beating Petitioner on his ribs, back, and head. *Id.* He did not file a complaint out of fear of further retaliation. *Id.*

61. On January 22, 2026, undersigned counsel arranged for a second physician to examine Petitioner remotely and review his medical records. See Sinodis Decl. at Exs. N-O (Vera and Cahill Decls.). The physician found that Respondents' lack of appropriate treatment and lack of referral for gastroenterology is tantamount to gross medical negligence. Sinodis Decl. at Ex. P (Dr. Schneberk's Declaration).

62. On February 10, 2026, Judge Maxine M. Chesney of the Northern District of California ordered the government to provide detainees at California City Detention Facility with "constitutionally adequate health care," including "adequate health care staffing"; "timely approval and access to medical specialists"; "timely and responsive emergency services"; "continuity of medical care upon intake and thereafter, including timely competition of active medical orders, access to scheduled provider appointments, and consistent provision of medication"; "timely access to prescribed medications"; and "a responsive 'sick call' request system." *Ruiz*, 2026 WL 391924, *1. On March 30, 2026, Judge Chesney appointed Muthusamy Anandkumar, M.D. "as the Court's expert and External Monitor to monitor compliance with the Court's February 10, 2026, Order and the provision of constitutionally adequate health care." *Id.* at Dkt. 112.

63. Following this order, Petitioner was finally provided with an abdominal

ultrasound in April 2026, which revealed that he is suffering from renal disease.[2] Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab O p. 125); *id.* at Ex. S (Ultrasound Report from Kern County Medical Hospital). The nurse performing the ultrasound informed him that she saw something "suspicious" and that Petitioner would have a follow-up appointment. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab K). However, within hours of being informed about this, Respondents transferred Petitioner from California City to Otay Mesa Detention Center, which is not subject to Judge Chesney's medical compliance order. Petitioner's scheduled follow-up appointment at Kern County Medical Hospital was then cancelled, as several prior appointments had been. *Id.* at Ex. L (Relevant Portions of Petitioner's California City Medical File).

64. On April 17, 2026, Creditors Bureau issued Petitioner a medical bill for the ultrasound he received at the Kern County Medical Hospital. Sinodis Decl. at Ex. T (Medical Bill from Creditors Bureau). The bill shows that ICE did not pay Quest Diagnostics, the third-party provider, for Petitioner's ultrasound.

65. At Otay Mesa, Petitioner's health has worsened even further, as he continues to be denied and deprived adequate medical care. He has not received an abdominal CAT scan, endoscopy, and colonoscopy, nor has he been scheduled for any follow-up appointment, despite repeated attempts by undersigned counsel to contact the facility and request this urgent medical treatment. Sinodis Decl. at Ex. B (Motion

[2] Recently obtained medical records reflect that, in June 2025, Petitioner was referred to undergo an abdominal ultrasound, but it was not until April 2026 that the ultrasound was provided—and only after an order from the district court in *Ruiz v. ICE*, No. 3:25-cv-09757, 2026 WL 391924, *1 (N.D. Cal. Feb. 10, 2026), had issued, resulting in the placement of an independent monitor over the California City Detention Facility. Petitioner has provided evidence of his medical neglect and retaliation to the Immigration Court, including multiple declarations from his attorneys discussing how California City prevented him access to an independent medical physician. Sinodis Decl. at Exs. N-O (Vera and Cahill Decls.).

for Custody Redetermination Based on Materially Changed Circumstances, at Tab J); *id.* at Ex. V (Email Correspondence from Undersigned Counsel). Furthermore, his lab results show blood in his stools, underscoring the need for him to see a GI specialist as soon as possible. *Id.* Petitioner experiences "frequent diarrhea" and continues "throwing up blood on a consistent basis." Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab J). But, "[a]fter reporting this to medical staff, one nurse told [Petitioner] to just quit coughing and that [his] conditions are 'normal' for [him], implying that [Petitioner] should just deal with them." *Id.*

66. In addition, staff at Otay Mesa have refused to provide him his daily Ensure drink, which he had been receiving for many months as part of his previously approved specialized diet due to his inability to eat many of the products served at the facility given his health conditions. *Id.*; *see id.* at Ex. M (Records reflecting Ensure was discontinued).

67. Petitioner's most recent list of active health problems, as documented by Otay Mesa Detention Center, reflects that, in addition to all the problems discussed above, Petitioner also suffers from lumbar disc disease, back pain, headaches, insomnia, tongue pain, and Vitamin D deficiency. Sinodis Decl. at Ex. U (Otay Mesa Detention Center Active Medical Conditions).

68. Despite repeated requests from Petitioner and undersigned counsel to resume providing him with his Ensure drinks and to reschedule his previously approved tests and procedures, Respondents have continued to refuse to do so.

69. On March 13, 2026, the Commission for the Control of INTERPOL's Files (CCF) issued a decision permanently deleting the Red Notice regarding Petitioner. Specifically, the CCF found:

> After a thorough examination of the elements before it, the Commission found that the data challenged provided by India raised questions as to compliance with applicable rules. As a result, it considered that the retention of these data in the INTERPOL

> Information System was not compliant with INTERPOL's rules and decided that they should be deleted.

Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tabs G-H).

70. Additionally, the General Secretariat of the International Criminal Police Organization-INTERPOL confirms that, as of March 13, Petitioner "is not subject to an INTERPOL Notice or Diffusion." *Id.*

71. On June 16, 2026, Judge Calabretta denied Petitioner's Supplemental Habeas Petition, which challenged the BIA's August 26, 2025, decision affirming the IJ's denial of bond on March 10, 2025. *Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, Dkt. 72, slip. op. (E.D. Cal. June 16, 2026). Importantly, that decision resolved causes of action that are not brought here in this present action.

72. On July 17, 2026, pursuant to 8 C.F.R. § 1003.19(e), Petitioner submitted a request for custody reconsideration based on materially changed circumstances since his last hearing on March 10, 2025, which demonstrate that he is not a flight risk or danger. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances). Specifically, he submitted evidence that: (1) the deletion of the INTERPOL Red Notice undermines the IJ's prior dangerousness finding; (2) a sworn declaration explaining that (a) he did not steal his former employer's trailer or threaten to kill him or his family and (b) provides context for the photographs of him holding what DHS alleges are firearms, thus undermining the IJ's and the BIA's prior dangerousness findings; (3) paystubs showing that Petitioner rented the trailer from his former employer and therefore did not steal the trailer in September 2022; (4) his psychological and physical health have significantly deteriorated due to egregious medical neglect; (5) he has completed self-improvement classes while detained; and (6) his civil incarceration has become prolonged. *Id.* Petitioner also submitted a report from the California DOJ that provides further support for Petitioner's account of the insufficient

medical care at Otay Mesa, as well as letters of support from family, friends, and religious institutions.

73. On July 28, 2026, IJ Sameit at the Otay Mesa Detention Center improperly denied Petitioner's motion, finding that there were no materially changed circumstances. Sinodis Decl. at Ex. A (IJ Sameit's Decision dated July 28, 2026). IJ Sameit found that Petitioner's medical issues and length of custody did not materially affect the prior dangerousness finding, and that INTERPOL's deletion of the Red Notice was immaterial because the BIA affirmed IJ Halperin's dangerousness finding due to Petitioner's September 2022 arrest for theft, the uncorroborated allegations from Petitioner's former employer that he threatened to kill his family, and the photographs of Petitioner holding what DHS alleges are firearms. *Id.* IJ Sameit misapplied the framework for determining whether materially changed circumstances exist and failed to take into consideration Petitioner's sworn declaration, which explained the facts and circumstances of his September 2022 arrest and the photographs filed by DHS. Nor did IJ Sameit recognize that dangerousness must be analyzed on a *current* basis. *See, e.g., Ngo v. INS,* 192 F.3d 390, 398 (3d Cir. 1999) ("The assessment of flight risk and danger to the community must be made on a current basis."); *Obregon v. Sessions,* No. 17-cv-01463-WHO, 2017 WL 1407889, at *7 (N.D. Cal. Apr. 20, 2017).

74. Petitioner is still experiencing pain and shortness of breath, which has gone completely unaddressed by Respondents. This has meaningfully impacted his ability to participate in his removal proceedings, including preventing him from being able to testify, as he is struggling to breathe while speaking. *See* Sinodis Decl. at Ex. B (Motion for Bond Reconsideration at Motion page 15). Moreover, he continues to suffer from rectal bleeding and blood in his urine, cannot eat any solid foods and is limited to a liquid-only diet due to his mouth sores and gastric ulcers, and experiences worsening mental health as a result of his medical decline and untreated psychological care. Petitioner has lost approximately thirty (30)

pounds since being detained in January 2025. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab L).

75. Intervention from this Court is therefore required to ensure that Petitioner does not continue to suffer irreparable harm in the form of unjustified, prolonged, and punitive detention, or from extreme, possibly-fatal consequences based on Respondents' unreasonable and punitive denial of medical treatment.

ARGUMENT

I. Right to a Constitutionally-Compliant Bond Hearing Based on Materially Changed Circumstances

76. Civil detention violates the Due Process Clause except "in certain special and narrow non-punitive circumstances, where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citations omitted). Even so, civil detention of noncitizens is not without its bounds. Congress created a scheme for detention of noncitizens in removal proceedings. Detention authority is found in several different statutes, one of which is relevant here—8 U.S.C. § 1226(a). Section 1226(a) authorizes the DHS to detain a noncitizen "pending a decision on whether [he] is to be removed from the United States." 8 U.S.C. § 1226(a).

77. All noncitizens detained by DHS who are not subject to mandatory detention under 8 U.S.C. § 1226(c) are entitled to a bond hearing to determine whether they should be released pending a decision in their immigration case. *See, e.g., Preap v Johnson*, 831 F.3d 1193, 1207 (9th Cir. 2016) (reversed on other grounds). Given this right to a bond hearing, whose oversight has been delegated to IJs, the BIA has articulated the standard for setting bond in *Matter of Patel*, 15 I&N Dec. 666 (BIA 1976): "We have held that an alien generally should not be detained or required to post bond pending a determination of deportability unless there is a finding that he is a threat to the national security or is a poor bail risk." *Matter of Spiliopoulos*, 16

I&N Dec. 488 (BIA 1987) (citing *Matter of Patel*). This standard has been consistently affirmed by the BIA. *See, e.g., Matter of Shaw*, 17 I&N Dec.177, 178 (BIA 1979); *Matter of Vea*, 18 I&N Dec.171 (BIA 1981).

78. Detained individuals are "not limited to only one bond reduction request." *Matter of Uluocha*, 20 I&N Dec. 133, 134 (BIA 1989). They may continue to seek custody redetermination until such time as the underlying removal proceedings become administratively final. *Matter of Valles-Perez*, 21 I&N Dec. 769, 772 (BIA 1997). In fact, the IJ maintains continuing jurisdiction to entertain bond redetermination requests even *after* the timely filing of an appeal with the BIA of a previous bond determination. *Id.* A request for a new bond hearing must be in writing and accompanied by a showing that the detainee's circumstances "have changed materially since the prior bond redetermination." 8 C.F.R. § 1003.19(e). The BIA has generally defined evidence of changed circumstances as evidence that is material and was unavailable at the last IJ hearing. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1991).

79. Courts in the Ninth Circuit review IJ bond decisions based on failure to comply with due process and have granted injunctive relief where the petitioner demonstrates significant changed circumstances regarding his potential danger, particularly where the IJ failed to consider probative evidence. *See e.g., Lopez-Reyez v. Bonnar*, 362 F. Supp. 3d 762 (N.D. Cal. Jan. 29, 2019) (*Lopez-Reyez II*); *Sahota*, 2020 WL 2992872, at *6; *Gimenez v. Hernandez*, No. 2:26-cv-00966-GJL, 2026 WL 1156075, at *8 (W.D. Wash. Apr. 29, 2026) ("Where the only identified factor supporting bond denial—namely, a pending criminal charge—was dismissed, the factual landscape before the IJ changed in a manner directly relevant to their prior bond determination. The IJ's failure to acknowledge or engage with evidence of that change, coupled with the absence of any articulated reasoning, constitutes an abuse of discretion."); *Chiapot Perez v. Immigr. & Customs Enf't*, No. 26-CV-2393-JES-AHG, 2026 WL 1333755, at *3 (S.D. Cal. May 13, 2026)

(denying habeas relief because the petitioner *did not* articulate any changed circumstances since his last bond hearing six months prior); *Hernandez v. Bondi*, No. 26-CV-2676-JES-DDL, 2026 WL 1471891, at *3 (S.D. Cal. May 26, 2026) (same, where the bond hearing occurred three months prior).[3]

80. Here, Petitioner presented extensive evidence regarding the materially changed circumstances since March 2025 that require he be provided a custody redetermination hearing. First, the deletion of the INTERPOL Red Notice qualifies as a material change in circumstances as it provides further confirmation that the Indian criminal charges against Mr. Singh were politically motivated and part of the persecution that the Indian government inflicted on him. As the record shows, IJ Halperin relied heavily on the INTERPOL Red Notice to deny Petitioner bond on March 10, 2025. Sinodis Decl. at Ex. H (IJ Post Hoc Memorandum at 4). Although the BIA affirmed IJ Halperin's bond denial on other grounds, IJ Halperin never made any finding that she would still have denied Petitioner bond if the INTERPOL Red Notice and the underlying information supplied by India did not exist and the BIA is not permitted to engage in fact finding. *See id.*; *see also id.* at Ex. I (BIA dismissal at 2–3); 8 C.F.R. §1003.1(d)(3)(iv) (prohibiting fact-finding by BIA). The BIA routinely recognizes that new evidence undermining the reliability of criminal charges against a noncitizen qualifies as a material change in circumstances. *See, e.g.*, *Matter of G-G-P-*, [redacted] (BIA Jan. 4, 2021) (dismissal of criminal charges following suppression of evidence qualifies as material change in circumstances); *Matter of B-G-L-*, [redacted] (BIA Nov. 8, 2019) (dismissal of two pending criminal charges and efforts at rehabilitation constitutes material change in circumstances). Accordingly, the deletion of the Red Notice qualifies as a materially changed circumstance as it demonstrates that IJ

[3] *See also Martinez v. Clark*, 124 F.4th 775, 784 (9th Cir. 2024) (constitutional and legal claims are reviewed de novo, while IJ decisions on the merits of bond constitute mixed questions of fact and law reviewed for "abuse of discretion").

Halperin's prior dangerousness finding was based on unreliable information, and IJ Sameit committed clear error in refusing to find the deletion as a materially changed circumstance.

81. Second, Petitioner submitted a sworn declaration that IJ Sameit failed to consider. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab C). It is well established that IJs are not free to ignore evidence and arguments raised by an individual. *Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005) (IJs are not free to ignore arguments raised by a petitioner); *Chen v. Ashcroft*, 362 F.3d 611, 620 (9th Cir.2004) (holding that "the IJ erred by failing to consider" an explanation offered by the petitioner); *Cole v. Holder*, 659 F.3d 762, 771-72 (9th Cir. 2011) (where there is any indication that the agency did not consider all of the evidence before it, including that the agency misstated the record or failed to mention highly probative or potentially dispositive evidence, the decision "cannot stand"). In that declaration, Petitioner explained, *inter alia*, that he did not steal from his former employer or threaten his family, that the photographs filed by DHS were taken as part of a music video, and that he would comply with any and all conditions of release, as he had previously done. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab C). Moreover, IJ Sameit ignored paystubs filed by Petitioner showing that he rented the trailer from his former employer and that the rent was deducted from his salary, which corroborated Petitioner's declaration. *Id.* at Ex. C (Petitioner's paystubs).

82. Third, Petitioner provided extensive evidence of his significant and severe medical and psychological deterioration as a result of Respondents' medical neglect and retaliation since March 2025. Sinodis Decl. at Ex. B (Motion for Custody Redetermination and Evidence in Support of Bond, filed on July 17, 2026 with EOIR). The evidence details how renal disease is dangerous and that failure to treat renal disease raises the risk of high blood pressure, heart disease, anemia,

weakened bones, and nerve damage. *Id.* at 128–166. Without proper care, it can progress to renal failure, and he will need dialysis or a transplant to survive. *Id.* at 157, 163.

83. Fourth, IJ Sameit ignored that Petitioner is engaged in self-improvement classes and that, as time passes, whatever evidence served as the basis for a prior dangerous finding becomes weaker and more tenuous. *Ngo,* 192 F.3d at 398 ("The assessment of flight risk and danger to the community must be made on a current basis."); *Obregon,* 2017 WL 1407889, at *7. Because dangerousness must be analyzed on a current basis, IJ Sameit's failure to provide Petitioner a new evidentiary hearing was clear error.

II. Petitioner's Continued, Prolonged Detention Violates Due Process

84. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez* , 872 F.3d at 990 (quoting *Zadvydas*, 533 U.S. at 693).

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

a. Petitioner's procedural due process rights have been violated.

86. 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." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481–82).

87. Courts in the Ninth Circuit have long recognized that, as civil immigration

detention lengthens, the constitutional calculus shifts. The Supreme Court's decision in *Zadvydas*, 533 U.S. at 701, identified six months as the point at which continued detention becomes presumptively unreasonable to trigger the "prolonged" inquiry. Prolonged detention without adequate procedural safeguards can violate the Due Process Clause, and that claim must be evaluated on an as-applied basis under the framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976); *see also Chiapot Perez*, 2026 WL 13333755, at *2 ("District courts in the Ninth Circuit have applied the *Mathews v. Eldridge* [] test when addressing due process where a petition has already been afforded at least one bond hearing.") (collecting cases). Here, Petitioner has now been detained for more than seventeen months. This period of time is nearly *triple* the six-month point at which courts recognize detention has presumptively become unconstitutional.

88. Under *Mathews v. Eldrige*, this Court must balance: "(1) the private interest affected; (2) the risk of erroneous deprivation through the procedures used, and the value of additional procedural safeguards; and (3) the government's interest, including the burdens of additional procedural requirements." 424 U.S. at 321. In other words, this Court must "balance [Petitioner's] liberty interest against the [government's] interest in the efficient administration of" its immigration laws in order to determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Haygood*, 769 F.2d at 1357.

89. The private interest at stake in this case is among the most profound individual interests recognized by our legal system: Petitioner's physical freedom, which is fundamental and lies at the heart of the Due Process Clause. *Zadvydas*, 533 U.S. at 690; *Hernandez*, 872 F.3d at 993. Petitioner is being held in "incarceration-like conditions," *see Xie v. Larose*, No. 3:26-CV-01116-RBM-MMP, 2026 WL 836351, at *4 (S.D. Cal. Mar. 26, 2026) (stating that courts in this district have found that detention at Otay Mesa is "indistinguishable from penal confinement"), where he is suffering from egregious medical negligence,

unreasonable medical treatment, and excessive medical deprivation that take his detention out of constitutional civil detention and render it punitive, *see infra* at Section II.b.ii. Petitioner has a significant private interest in his liberty so that he may obtain adequate medical care and stabilize his health to avoid further irreparable injury and even death, all of which have occurred and will worsen as a result of the seventeen months' of medical neglect that he has endured in Respondents' custody.

90. Furthermore, Petitioner has a significant private interest in remaining free from detention. He lived out of detention for over five years on bond, during which he complied with his conditions of release, obtained employment, appeared for his immigration hearings, built a community, and furthered his faith and peaceful political activism. Importantly, Petitioner worked on stabilizing and improving his health after suffering horrific psychological and physical persecution and torture in India based on his political and religious views. Each day that he is detained, Petitioner, his family, and his community suffer irreparable harm, including the deprivation of constitutional rights, emotional distress, and grievous medical hardship that will progress into kidney failure and permanently disable him without intervention. *See Hernandez*, 872 F.3d at 995.

91. Now, after seventeen months of civil confinement with no end date and no neutral and constitutionally-compliant judicial assessment, Petitioner's circumstances represent precisely the kind of sustained deprivation of liberty the Clause is designed to guard against. His private interest in being free from incarceration thus weighs *heavily* in his favor.

92. The second *Mathews* factor, which evaluates "the risk of an erroneous deprivation of [Petitioner's] interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards," 424 U.S. at 335, also weighs heavily in Petitioner's favor. Providing him with immediate release, or, in the alternative, a constitutionally-compliant bond hearing *before this Court*

would decrease the risk of Petitioner continuing to be erroneously deprived of his liberty. *See* Section III, *infra*.

93. "In evaluating the risk of erroneous deprivation in the context of noncitizen detention, the Ninth Circuit has looked to whether the detainee has a statutory right to procedural protections, such as individualized custody determinations and the right to seek additional bond hearings throughout detention." *Eliazar G.C. v. Wofford*, 2025 WL 711190, *6 (E.D. Cal. Mar. 5, 2025) (citations omitted). As the Ninth Circuit has recognized, the risk of erroneous deprivation is high where custody determinations are not made by a neutral arbiter. *See e.g.*, *Diouf v. Napolitano*, 634 F.3d 1081, 1091-92 (9th Cir. 2011) (explaining that ICE's custody reviews in another context are not constitutionally adequate because "they do not provide an in-person hearing, they place the burden on the [noncitizen] rather than the government and they do not provide for a decision by a neutral arbiter such as an immigration judge"); *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzalez*, 548 U.S. 30 (2006) ("A neutral judge is one of the most basic due process protections.").

94. The risk of an erroneous deprivation is also particularly high where, as here, the individual has shown a material change in circumstances such that they merit a hearing—a process provided everyday by IJs and district court—to assess whether continued incarceration is justified.

95. Here, the record shows that Petitioner must be provided a constitutionally-compliant custody redetermination hearing to assess whether his continued detention is warranted. IJ Sameit clearly erred in issuing a contrary determination. First, IJ Sameit misapplied the temporal framework for determining whether materially changed circumstances exist. Rather than analyzing whether circumstances have changed since March 10, 2025—the date of Petitioner's last bond hearing—he measured from the BIA's August 26, 2025. Second, IJ Sameit overlooked that IJ Halperin never found that she would have denied bond if

Petitioner's Red Notice and the underlying information provided by India to INTERPOL were not in the record. Third, IJ Sameit ignored new and probative evidence filed by Petitioner—in addition to INTERPOL's decision deleting the Red Notice—that demonstrates he is now a danger to the community, including his sworn statement, participation in self-improvement classes, and letters of support from family, friends, and community members.

96. IJ Sameit is also incorrect in finding that, under the particular facts and circumstances of this matter, prolonged detention of seventeen months without a custody redetermination hearing is not a material change in circumstances.

97. The record clearly demonstrates that Petitioner is not a danger and must be immediately released from custody. At a minimum, there is no doubt that materially changed circumstances require the provision of a new evidentiary hearing where a neutral adjudicator can assess—on a current basis—whether continued incarceration is justified.

98. Third, Respondents' interest in continuing to detain Petitioner in violation of his due process rights is extremely low, and when weighed against his significant private interests in his liberty and in obtaining adequate and life-saving medical care, the scale tips sharply in favor of releasing him from custody. Each day that Petitioner remains detained, he suffers further irreparable harm in the form of serious medical and psychological injury and retaliation.

99. Respondents' interests, including that Petitioner appears at his hearings, protecting the community, and conserving judicial resources, also underscore the need for Petitioner's release. In fact, maintaining Petitioner in custody indefinitely for more than seventeen months is extremely costly and burdensome for the government. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the public of immigration detention are 'staggering': $158 each day per detainee, amounting to a total daily cost of $6.5 million." *Hernandez*, 872 F.3d at 996. Further, any interest is outweighed by the cumulative seventeen months that

Petitioner has already spent in custody and fourteen months since his prior bond review. *See Diouf*, 634 F.3d at 1091–92 (government's interest in expedited removal proceedings does not justify prolonged detention without a hearing).

100. The equitable powers of district courts are broad, flexible, and inherent, and they include the authority to order immediate release. *See Brown v. Plata*, 563 U.S. 493, 538 (2011) (quotations omitted). District courts may order "relief that the Constitution would not of its own force initially require if such relief is necessary to remedy a constitutional violation." *Toussaint v. McCarthy*, 801 F.2d 1080, 1087 (9th Cir.1986). As such, courts in this the Ninth Circuit regularly order immediate release for individuals like Petitioner who have been unlawfully detained in violation of the Constitution. *See e.g.*, *Pedrozo v. Current or Acting Field Office Director*, 2026 WL 1113874, *3-*4 (E.D. Cal. Apr. 24, 2026); *Mayen v. Warden*, 2026 WL 1158217, *2 (E.D. Ca. Apr. 29, 2026); *Abasolo v. Warden*, 2026 WL 936965, *1 (E.D. Cal. Apr. 7, 2026); *see also Najarro-Ortega v. Warden*, 2026 WL 1142838, *4-5 (E.D. Cal. Apr. 28, 2026); *Velasquez v. Warden*, 2026 WL 1143024, *5 (E.D. Cal. Apr. 28, 2026); *Moctezuma v. Henkey*, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026); *Elias*, 817 F.Supp.3d at 986; *Rodas-Dieguez v. Noem*, 2026 WL 549910, at *2 (S.D. Cal. Feb. 26, 2026); *Cardin Alvarez v. Rivas*, 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025); *Doblado Cornejo*, No. 2:26-cv-02721-SMB-ASB, slip op. at 1 (D. Ariz. Apr. 29, 2026); *Orozco-Ramirez v. Visser*, No. CV-26-252-GF-BMM, ---- F. Supp. ----, 2026 WL 1329806, at *11 (D. Mont. May 13, 2026).

101. District courts also have authority to conduct the fact-finding necessary to consider whether further detention is warranted, *see* 28 U.S.C. § 2243 (instructing courts to "summarily hear and determine the facts"), and have exercised this authority in cases involving immigration detention. *See, e.g., Ozturk v. Trump*, 2025 WL 1355667, at *1 (D. Vt. May 9, 2025) (ordering release after holding bail hearing); *Mahdawi v. Trump*, 781 F. Supp. 3d 214, 235 (D. Vt. 2025);

Suri v. Trump ("Suri III"), No. 1:25-CV-480 (PTG/WBP), 2025 WL 1392143, at *1 (E.D. Va. May 14, 2025), *aff'd*, No. 25-1560, 2026 WL 2123557 (4th Cir. July 23, 2026); *Khalil v. Trump*, No. 2:25-cv-01963-MEF-MAH, Dkt. 316 (D.N.J. Jun. 20, 2025); *Leslie v. Holder*, 865 F. Supp. 2d 627 (M.D. Penn. 2012) ("[W]e are empowered to conduct bail proceedings in habeas corpus proceedings brought by immigration detainees. Indeed, the authority to conduct such hearing has long been recognized as an essential ancillary aspect of our federal habeas corpus jurisdiction. ... [T]here is nothing extraordinary or novel about this practice of conducting bail hearings in connection with federal immigration habeas corpus proceedings.") (collecting cases); *Madrane v. Hogan*, 520 F. Supp. 2d 654 (M.D. Pa. 2007) (holding evidentiary hearing and ordering conditional release).

102. If, in the alternative, the Court determines that conducting its own evidentiary hearing is appropriate instead of outright release, the "fiscal and administrative burdens" that a constitutionally-compliant bond hearing would impose is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35. Petitioner does not seek a unique or expensive form of process, but rather a routine hearing before this Court regarding whether his detention is justified, at which Respondents prove by clear and convincing evidence that he is a danger or flight risk. *See* Section III.b., *infra*.

103. In sum, all three *Mathews* factors weigh in Petitioner's favor. He should be ordered immediately released, or, in the alternative, this Court should conduct a full evidentiary hearing at which Respondents must prove, by clear and convincing evidence, that Petitioner is a danger and flight risk.

b. Substantive Due Process Requires that Petitioner be Immediately Released.

i. The length of Petitioner's incarceration has become prolonged and punitive as it serves no legitimate purpose.

104. Substantive due process prohibits civil detention that is punitive in purpose or in effect, including civil detention that is excessively prolonged in relation to its purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Put otherwise, "due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed"; otherwise, their commitment amounts to punishment. *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (quoting *Jackson*, 406 U.S. at 738).

105. Even when the Constitution permits confinement that is brief, the Supreme Court has recognized that such confinement becomes punitive when it is "excessively prolonged." *United States v. Salerno*, 481 U.S. 739, 747 n.4 (1987). Moreover, as a detained person's time in custody increases, so too does their liberty interest. *See Zadvydas*, 533 U.S. at 691. "[F]or detention to remain reasonable," greater justification is needed "as the period of confinement grows." *Id.*

106. Accordingly, "at some point, regardless of the risks, due process will require that [a person subject to prolonged civil confinement] be released." *United States. v. Torres*, 995 F.3d 695, 709–10 (9th Cir. 2021); *see also United States v. Briggs*, 697 F.3d 98, 103 (2d Cir. 2012) (stating that "for every set of circumstances, due process does impose some limit" on civil confinement). "The point at which detention constitutes a due process violation requires a case-by-case analysis." *Torres*, 995 F.3d at 708 (citing *United States v. Gelfuso*, 838 F.2d 358, 359–60 (9th Cir. 1988)).

107. To determine whether Petitioner's detention has become unconstitutionally prolonged, this Court should apply the six-factor balancing test set forth in *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773 (S.D. Cal. 2020). Although this Court applies the six-factor test to matters involving prolonged mandatory detention under 8 U.S.C. § 1225(b), the test is instructive as a constitutional framework to determine when civil immigration detention becomes unreasonably prolonged under the Fifth Amendment. These factors reflect principles recognized

throughout Ninth Circuit prolonged-detention jurisprudence, and the Court should therefore apply it here.

108. Under the test, the Court considers the following six factors to determine whether detention has become constitutionally prolonged: (1) the total length of detention to date; (2) the likely duration of future detention; (3) conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal. *Gao v. LaRose*, 805 F. Supp. 3d 1106, 1111 (S.D. Cal. 2025).

109. As to the first factor, which has been described as "the most important," *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1118 (W.D. Wash. 2019), Petitioner has been detained for nearly nineteen months in total, and seventeen months since his bond hearing before IJ Halperin. Courts in this jurisdiction have found that detention over seven months without due process is unreasonable. *See e.g., Xie v. Larose*, No. 3:26-CV-01116-RBM-MMP, 2026 WL 836351, at *3 (S.D. Cal. Mar. 26, 2026) (the petitioner was detained for more than fourteen months); *Abdul Kadir v. Larose*, Case No.: 25cv1045-LL-MMP, 2025 WL 2932654, at *5 (S.D. Cal. Oct. 15, 2025) (collecting cases and finding that a nearly 13-month detention weighed in favor of the petitioner); *see also Sibomana v. LaRose*, Case No.: 3:22-cv-933-LL-NLS, 2023 WL 3028093, at *4 (S.D. Cal. Apr. 20, 2023) ("In general, as detention continues past a year, courts become extremely way of permitting continued custody absent a bond hearing."). Accordingly, given that his detention has lasted more than nineteen months, seventeen of which occurred after his hearing before IJ Halperin, the first and most important factor weighs heavily in favor of Petitioner.

110. As to the second factor, while Petitioner's Individual Calendar Hearing is scheduled for September 9, 2026, the outcome of that hearing, along with the amount of time it would take to resolve any appeal, is unknown. *Xie*, 2026

WL 836351, at *3. Courts find that the "undetermined, but likely significant, period of [] detention through the appeals process" weighs in favor of Petitioner. *Id.*; *see also Gao*, 805 F. Supp. 3d at 1111; *accord Abdul Kadir*, 2025 WL 2932654, at *5; *Masood v. Barr*, Case No. 19-cv-07623-JD, 2020 WL 95633, at *3 (N.D. Cal. Jan. 8, 2020) ("The BIA appeal ... [is a] perfectly legitimate proceeding[ ] he is legally entitled to pursue," and the respondents "cannot predict with any degree of confidence when the BIA appeal will be resolved," which "could lead to further proceedings that might take up many more months, or even years.").

111. As to the third factor, "[t]he more that the conditions under which the [noncitizen] is being held resemble penal confinement, the stronger his argument that he is entitled to a bond hearing." *Banda*, 385 F. Supp. 3d at 1119 (citation omitted). Petitioner spent most of the nineteen months of his immigration detention at California City and was transferred to Otay Mesa Detention Center in April 2026. Courts in this district have found that detention at Otay Mesa Detention Center is "indistinguishable from penal confinement." *Kydyrali*, 499 F. Supp. 3d at 773 (citation omitted). Courts have considered evidence suggesting the same is true of California City Detention Facility. *See Doe v. Chestnut*, 810 F. Supp. 3d 1169, 1200–1201 (E.D. Cal. 2025). Moreover, as discussed *infra* at Section II.b.ii, Petitioner's conditions of confinement have become punitive as a result of Respondents' egregious medical negligence, unreasonable medical treatment, and excessive medical deprivations that take his detention out of the real of constitutional civil detention.

112. The fourth and fifth factors also weigh in favor of Petitioner, as any delays in his removal proceedings can primarily be attributed to Respondents. Petitioner's Individual Calendar Hearings have been ongoing since February 2025. The delays were caused, in part, by the reassignment of IJs in his case and Petitioner's transfers, and because one of the IJs went on leave and cancelled and continued multiple of Petitioner's hearings. In addition, Petitioner has been

medically unavailable to testify at hearings due to illness or shortness of breath—a condition directly attributable to Respondents.

113. The sixth factor also weighs favorably. Although Petitioner's applications for asylum, withholding of removal, and relief under the Convention Against Torture have not yet been adjudicated, the extensive evidence in the record reflects that he has a well-founded fear of future persecution and torture based on the past harm, torture, and persecution that he suffered based on his religious and political views. In addition, the INTERPOL Red Notice (which was deleted in March 2026) and fraudulent complaints filed in India against Petitioner support that the Indian government continues to persecute him, and that they will do anything—including abuse the power of international criminal agencies—to secure his deportation in order to harm and even kill him for advocating for his political and religious views.

114. Accordingly, all factors, including "the most important one," weigh in Petitioner's favor, and none weigh against him. The Court must find that his detention has become unreasonably prolonged.

115. While a bond hearing has historically been considered the process that would be constitutionally required once detention has become prolonged, the record here reflects that an IJ bond hearing will not remedy the constitutional violation. Although the regulatory framework permits Petitioner to seek a new custody redetermination hearing if he can establish materially changed circumstances, IJ Sameit's clear errors rendered that process ineffective. Furthermore, there is overwhelming evidence demonstrating that EOIR as a whole is biased and partial such that bond denials are preordained no matter the circumstances. *See* Section III, *infra*. Finally, due process requires that Respondents establish the necessity of Petitioner's further incarceration under the circumstances, particularly given the record evidence and the length of time since Petitioner's March 10, 2025, bond hearing.

116. Accordingly, the Court should order Petitioner's immediate release under any conditions that the Court deems appropriate. This includes alternatives to detention such as electronic monitoring or regular check-ins with ICE, which Petitioner has successfully complied with in the past and will continue to do in the future.

ii. Petitioner's conditions of confinement are punitive.

117. As explained above, civil detention is the exception, not the rule, and even where permitted by law or regulation, must comport with fundamental constitutional limitations. Detention violates the Due Process Clause unless it is ordered in "certain special and 'narrow' nonpunitive 'circumstances,' where a special justification ... outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Zadvydas*, 533 U.S. at 690 (internal citations omitted). The two permissible constitutional purposes of civil immigrant detention are to prevent danger to the community or flight risk. *Id.*

118. Even where there exists a legitimate government interest in civil custody, *punitive* civil detention violates the Constitution. *Sorio v. Hermosillo*, No. 2:25-CV-02492-TL, 2026 WL 413530, at *8 (W.D. Wash. Feb. 13, 2026) (individual in punitive civil custody is "in custody in violation of the Constitution or laws or treaties of the United States.") (quoting 8 U.S.C. § 2241(c)(3)). "For civil detainees like [Petitioner], the Ninth Circuit has held that conditions of confinement are a relevant factor in determining whether civil detention remains civil rather than punitive (and therefore permissible)." *Doe v. Becerra*, 723 F. Supp. 3d 688, 691 n.1 (N.D. Cal. 2024) (rejecting government's argument that punitive-detention claim did not sound in habeas).

119. Conditions of detention are punitive if they are intended to punish or where they are "excessive in relation to [their non-punitive] purpose." *Jones*, 393 F.3d at 933–34 (cleaned up). Applying this language as the standard, the court in *Sorio* determined that the extreme consequences of the respondents' unreasonable

treatment constituted such excessive deprivations as to render detention punitive and ordered immediate release. *Sorio*, 2026 WL 413530 at *12.

120. The *Sorio* petitioner was in good health in March 2025 when he was transferred into immigration custody from criminal incarceration. *Id.* at *1. By October 2025, his health had declined so severely that he required two partial foot amputations and had been diagnosed as suffering from many of the same conditions as Petitioner here, including ulcerative colitis, blood in his stool, acute blood loss anemia, kidney injury, severe vitamin D deficiency, and "dramatic unintended weight loss." *Id.* at *1. The petitioner's hospital records, expert medical report and declarations, and detention records showed a "pattern of failures of care by Petitioner's custodians and medical providers that more likely than not resulted in the extreme pain and permanent disability Petitioner has suffered in Respondents' care." *Id.* at *10. Notably, in *Solorio*: the government ignored the petitioner's repeated requests to take him to the hospital for months after he complained of blood in his stool and GI problems; the facility refused to fill the hospital's antibiotic prescription; multiple physicians provided declarations opining that the petitioner's ulcerative colitis symptoms required earlier treatment, and the delay in appropriate treatment worsened his colitis and likely led to his amputations; and the facility's doctor failed to distinguish between the petitioner's medical condition and provided him with the wrong medication that further harmed him. *Id.* The court found the care to be unreasonable. *Id.*

121. The court acknowledged that, while the purpose of immigration detention is to protect the public and enforce immigration laws, the medical treatment and extreme restrictions on the petitioner's liberty and health were excessive in relation to its asserted purpose, even though he—unlike Petitioner here—had been ordered removed. *Id.* at *11. Specifically, the court noted:

> There is no indication that these interests could not have been just as easily served without ignoring his cries of pain for hours, or without declining to see him as his bone was eaten away by infection. There is

> no indication that these interests could not have been served while bringing Petitioner to the hospital for imaging when a GI appointment could not be scheduled quickly (or contracting with additional external providers), while filling his prescriptions, or while treating him with appropriate medication based on his actual diagnosis. And finally, there is no indication that these interests cannot be served by subjecting Petitioner to alternatives to detention under appropriate conditions of release while he pursues outside treatment....

Id. In light of petitioner's punitive detention, the court ordered his immediate release. *Id.* at *12.

122. Other federal courts have ordered immediate release after finding that immigration detention is excessive in relation to its purpose when the conditions in a detention facility endanger a detainee's life or where petitioners have medical needs that make them vulnerable to further medical harm. *See e.g., Campbell v. Warden Adelanto ICE Processing Ctr.*, No. EDCV 26-02397-KK-MARX, 2026 WL 1772802, at *6 (C.D. Cal. June 2, 2026) (the petitioner continued to experience worsening gastrointestinal bleeding and despite the petitioner's claims of inadequate medical treatment, the respondents failed to present meaningful evidence of the actions taken to address the petitioner's medical condition or that the conditions are being appropriately treated. "Hence, Petitioner will continue to be irreparably harmed absent relief from this Court."); *Morales Sumano v. Chestnut*, No. 1:26-CV-04954-KES-CDB (HC), 2026 WL 2177112, at *4 (E.D. Cal. July 28, 2026) (record showed petitioner's detention presented a significant risk of death, petitioner suffered serious mental health issues, and the facility failed to provide adequate treatment); *Singh v. Barr*, No. 20-CV-02346-VKD, 2020 WL 1929366, at *10 (N.D. Cal. Apr. 20, 2020) (ordering release of detainee with hypertension during COVID-19 pandemic, despite IJ's finding that he was a danger due to convictions for armed robbery, battery resulting in serious bodily injury, and other offenses); *Bent v. Barr*, 445 F. Supp. 3d 408, 418 (N.D. Cal. 2020) (ordering release of 58-year-old petitioner with asthma and with 2006

attempted murder conviction during COVID-19 pandemic).

123. Petitioner asserts that here, where (1) his detention is civil, (2) he has no criminal convictions anywhere in the world, (3) no independent and unbiased adjudicator has found him to be a current danger, (4) his Red Notice has been deleted, and (5) there were no circumstances to support that he was a flight risk, the conditions of his detention—specifically, Respondents' egregious medical neglect and denial of care—are intended to punish him and are excessive.

124. Like the *Sorio* petitioner, Petitioner suffers from serious GI issues, including severe pain and blood in his urine and stool, Vitamin D deficiency, and has dramatically lost 35 pounds in the eighteen months that he has been detained. *See* Sinodis Decl. at Ex. U (Otay Mesa Active Problems List for Petitioner); *id.* at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab L). In addition, Petitioner also has renal disease, mouth sores, gastric ulcers, severe mental health issues, lumbar disc disease, anemia, and lung problems that cause him to cough blood. *Id.*; *see also id.* at Ex. P (Dr. Schneberk Declaration).

125. Respondents have been on notice of Petitioner's serious medical conditions even prior to his re-arrest in January 2025. As part of his regular check-in procedures with ICE, Petitioner provided updated medical records and proof of his prescribed medications. Shortly after his re-arrest on January 28, 2025, undersigned Counsel also supplied ICE with Petitioner's then up-to-date medical records. Sinodis Decl. at Exs. E-F (Email Correspondence from Undersigned Counsel). Although many of Petitioner's conditions were preexisting, he had been receiving consistent treatment from his specialist and was able to maintain a regular diet tailored to his needs. That all changed when ICE re-arrested him without notice at a scheduled check-in appointment.

126. Since then, Respondents have refused to provide him with the medical treatment that he needs, and his health quickly and significantly declined.

Petitioner complained of the ulcers, blood in his stool and urine, pain, dramatic weight loss—by October 2025 he had lost seven pounds, by November he had lost seventeen pounds, and as of March 2026 he had lost thirty pounds—and has fainted due to feeling weak and feeble. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tabs J-N). Respondents' records reflect that they acknowledged his need for procedures such as colonoscopies and endoscopies as early as April 2025, yet they waited eleven months to provide him with an ultrasound—and only did so because a court order required constitutionally adequate care to be provided to all detainees at California City. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab O); *see also id.* at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab O p. 109-110) (provider stating, "Request for Ultrasound for chronic stomach ulcer and stomach pain," and "This is urgent. To be seen in 3 weeks," and adding, in response to the question "Previous treatments were," "The patient has been to the ER for rectal bleeding. He then had a gastroenterology appointment and they requested that he has abdomen ultrasound done."); *id.* at Ex. L (Relevant Portions of Petitioner's Medical File from California City); *see also Ruiz*, 2026 WL 391924, *1 (N.D. Cal. Feb. 10, 2026).

127. In the interim, Petitioner was sent to the emergency room for rectal bleeding and was seen by the medical team on numerous occasions for weakness, fainting, vomiting, bleeding in his urine, headaches, back pain, severe stomach pain, chronic cough, and a plethora of other symptoms, as discussed *supra*. Petitioner was repeatedly denied access to care, including access to the medication that he needs to survive. In his desperation to obtain medical care, he engaged in three hunger strikes in September, October, and December 2025, which were futile and subjected him to further harm and retaliation. California City staff and leadership, including Warden Chestnut, placed him in extended isolation,

threatened to provide him any medication and care unless he stopped the hunger strikes, and threatened to transfer him to a detention center where he would be lawfully forcibly fed.

128. Petitioner's medical and psychological conditions were such that, in November 2025, undersigned counsel coordinated with an outside medical physician to travel from the Bay Area to visit Petitioner at California City and conduct an independent medical exam to assess his health. Sinodis Decl. at Exs. N-O (Vera and Cahill Decls.). The facility approved the visit, yet on December 22, 2025, when the physician arrived at the facility, officers denied her entry. *Id.*

129. Undersigned Counsel arranged for a different physician to examine Petitioner remotely on January 22, 2026, and review his medical records. That physician found as follows:

> [Petitioner]'s history of endoscopy-confirmed gastric ulcer with ongoing episodes of hematemesis, hemoptysis, and melena are concerning for emergent medical pathology requiring evaluation by a trained emergency medicine provider. The lack of referral to an appropriate Emergency Department with appropriate treatment on the part of detention facility medical staff is tantamount to *gross medical negligence*.
>
> [....]
>
> These deficiencies regarding adherence to medical recommendations including his diet, medications and timely subspecialty (gastroenterology) access are a severe threat to his morbidity and mortality. In light of his medical conditions, which preceded his detainment, it is imperative that [Petitioner] resume receiving proper treatment. Absent that occurring, he may deteriorate medically, resulting in long term morbidity and permanent deficits or death.

Id. at Ex. P (Dr. Schneberk Decl. at 3) (emphasis added).

> [M]y examination of [Petitioner] and review of his medical records indicate that his physical and mental health are significantly worsening,

> and that the detention facility has been grossly negligent in providing him timely and appropriate care.

Id. at 4 (emphasis added).

130. On March 31, 2026, ICE medical staff noted that Petitioner's situation was "urgent" and that he needed "[t]o be seen in 3 weeks." Sinodis Decl. at Ex. B (Motion for Custody Redetermination, Medical Records, at 110). "The patient has been to the ER for rectal bleeding. He then had a GI appointment and they requested that he has an ultrasound done." *Id.*

131. On April 14, 2026, Petitioner finally underwent an abdominal ultrasound—which, again, was ordered in June 2025—and a nurse informed him that she saw something "suspicious." Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances at Tab K); *see also id.* at Ex. S (Ultrasound Results). Petitioner pressed for more information but was told that a report would be sent to medical staff at the California City ICE Processing Center where he was detained at the time. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances, at Tab K).

132. Three days later, on April 17, California City staff informed Petitioner that he would be scheduled for a follow-up appointment with the radiology department within days. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances at Tab O, p. 125). But, just several hours after that, Respondents filed a change of address form in Petitioner's removal proceedings, indicating that he would be transferred to the Otay Mesa Detention Center in San Diego, California. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances at Tab K). In the early morning hours of Saturday, April 18, Petitioner was transferred to that facility, where he currently remains. *Id.*

133. Otay Mesa is not subject to the independent monitor appointed by Judge Chesney and is not subject to a class action lawsuit challenging medical conditions. Petitioner's transfer appears to be consistent with other actions taken by Respondents in recent months to shuffle detainees between facilities to evade scrutiny by external monitors of the deplorable medical and living conditions at their facilities.

134. Petitioner has presented his Kern County medical records to staff at Otay Mesa and the IJ and asserted in Immigration Court that Respondents transferred him to avoid having to provide him medical treatment and in retaliation for his advocacy. Respondents have not denied Petitioner's allegations, despite having numerous opportunities to do so.

135. Petitioner continues to suffer from rectal bleeding and blood in his urine, cannot eat any solids and is limited to a liquid-only diet due to his mouth sores and gastric ulcers, and experiences worsening mental health as a result of his medical decline and untreated psychological care. Otay Mesa staff refuse to provide Petitioner his Ensure drink, which he received at three prior facilities due to his restricted diet. Sinodis Decl. at Exs. M, U, V. This has caused Petitioner to lose 30 pounds. Petitioner is also experiencing pain and shortness of breath, which has similarly gone completely unaddressed by Respondents. *See id.* at Ex. B (Motion for Custody Redetermination). This has impacted his ability to meaningfully participate in his removal proceedings, prevented him from being able to testify on July 7 as he was struggling to breathe while speaking, and required that his hearing be reset. *Id.*

136. Respondents have subjected Petitioner to unconstitutionally punitive conditions during his detention and his lack of medical treatment constitutes an express intent to punish him. Over seventeen months since his last bond hearing, Petitioner has repeatedly and consistently requested medical care but Respondents have grossly negligently denied it, resulting in Petitioner's deterioration and

threatening his long term health and disability. Respondents have retaliated against him by depriving him of access to medicine and medical care, even while acknowledging his need for procedures and specific treatment. Respondents also prohibited him access to outside physicians despite already approving such visits. In addition, Respondents have repeatedly sent Petitioner to solitary confinement, which has caused Petitioner further medical and psychological harm. While in solitary, he does not receive medical monitoring, is deprived from phone calls and outdoor time, and is punished by guards who have filed fabricated complaints against him and, on one occasion, beat Petitioner on his ribs, back, and head. Finally, within days of Petitioner being diagnosed with renal disease, Respondents punished him by transferring him out of California City and into Otay Mesa, which is outside the independent medical monitoring order. As a result of his transfer, Petitioner was not able to have a follow-up with radiology regarding his renal disease, and has not received any further treatment for renal disease.

137. Separately, the record shows that, taken all together, the medical care that Petitioner has received is constitutionally inadequate. Respondents have unreasonably denied him care that has resulted in his developing renal disease and severe GI problems. Due to his lack of treatment, Petitioner's renal disease is at risk of progressing into end-stage kidney failure, severe cardiovascular complication, and death. Sinodis Decl. at Ex. B (Motion for Custody Redetermination Based on Materially Changed Circumstances at Tab P, pp. 128–166).[4] If left untreated, gastric ulcer complications include internal bleeding, perforation of the stomach wall, anemia, shortness of breath, and bacterial infections that can lead to sepsis.[5] Indeed, the pattern of failures of care by

[4] "End-stage kidney disease," Mayo Clinic (May 15, 2026), available at https://www.mayoclinic.org/diseases-conditions/end-stage-renal-disease/symptoms-causes/syc-20354532

[5] "Stomach Ulcer," Cleveland Clinic (March 18, 2024), available at https://my.clevelandclinic.org/health/diseases/22314-stomach-ulcer

Petitioner's custodians and medical providers have caused him extreme pain and likely have permanently disabled him.

138. Accordingly, Respondents' extreme denial of care and intent to harm Petitioner are punitive and excessive in relation to his civil detention and his immediate release from custody is required.

c. Petitioner's Continued Detention is Unlawful Under Section 504 of the Rehabilitation Act

139. "[T]he Rehabilitation Act of 1973 prohibits discrimination against handicapped persons in any program or activity receiving federal financial assistance." *U.S. Dep't of Transp. v. Paralyzen Veterans of Am.*, 477 U.S. 597, 599 (1986). The Rehabilitation Act requires federal agencies to provide reasonable accommodations to individuals so that they can fully participate in benefits administered by these agencies. 29 U.S.C. § 794(a). To make a prima facie claim of discrimination, a petitioner must allege facts showing he (1) has a qualifying disability, (2) has been denied the benefits of services, programs or activities, (3) the discrimination is solely by reason of his disability, and (4) the program received federal financial assistance. *Lovell v. Chandler*, 303 F.3d 1039, 1052 (9th Cir.2002). A disability is defined as:

> (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
> (B) a record of such an impairment; or
> (C) being regarded as having such an impairment.

42 U.S.C. § 12102(1).

140. Federal courts in the Ninth Circuit have determined that medical conditions that qualify as disabilities under the Rehabilitation Act are those that affect a person's daily functions, including: post-traumatic stress disorder (PTSD), anxiety, depression, chronic lung problems, pre-diabetes, and hypertension. *Moran v. U.S. Dep't of Homeland Sec.*, No. 5:20-cv-00696-DOC-JDE, 2020 WL 6083445,

at *8 (C.D. Cal. Aug. 21, 2020); *Franco-Gonzales v. Holder*, 767 F. Supp. 2d 1034, 1039, 1052 (C.D. Cal. 2010).

141. Here, Petitioner's medical records show that he has qualifying medical and psychological disabilities. His mental health issues include Complex Post Traumatic Stress Disorder, Panic Disorder, Major Depressive Disorder, Anxiety, and memory issues. Sinodis Decl. at Ex. C (Forensic Evaluation conducted by Dr. Ayoub); *id.* at Ex. P (Dr. Schneberk Declaration). Petitioner's mental health issues are the result of the severe physical and psychological abuse that he suffered in India in retaliation for his political activism. He also suffers from renal disease, chronic lung problems that cause him to cough blood, GI conditions such as ulcers, mouth sores, and rectal bleeding, and lumbar disc disease.

142. As stated above, prior to his unlawful rearrest, Respondents had actual notice of Petitioner's disability, and his health was stable. But Petitioner's health quickly declined and worsened following his detention, as Respondents have repeatedly and consistently denied his requests for medicine and medical care and retaliated against him, even while acknowledging his need for procedures such as colonoscopies and endoscopies. The retaliation has included physical violence, threats of harm including forced feeding, deprivation of medication, placement in isolation without medical monitoring, and refusal to allow an external physical to enter the facility to conduct a physical exam on Petitioner despite prior approval. *See* Section II.b.ii, *supra*. Moreover, Respondents failed to provide him with an abdominal ultrasound for more than one year, despite internal records reflecting the urgent need. Petitioner finally obtained an ultrasound in April 2026, presumably because California City Detention Center was subject Judge Chesney's order requiring Respondents to provide constitutionally-adequate medical care and appointed an independent medical monitor. *Ruiz*, 2026 WL 391924, *1; *see also id.* at Dkt. 112. The ultrasound findings show that Petitioner has renal disease. *See* Sinodis Decl. at Ex. S (Ultrasound Report). On April 17, Petitioner was informed

that he was scheduled for a follow-up appointment with the Kern County Hospital radiology department the following day. However, on April 18, instead of taking him to Kern County Hospital, Respondents transferred him to Otay Mesa Detention Center—his fourth detention center in the nineteen months of his detention.

143. By transferring Petitioner to Otay Mesa, Respondents also took him out of the independent monitoring zone, as Otay Mesa is not subject to the independent monitor appointed by Judge Chesney and is not subject to a class action lawsuit challenging medical conditions. Such transfer was presumably solely for the purpose of preventing Petitioner's access to the independent medical monitoring, as his ultrasound revealed the extent of Respondents' medical negligence against Petitioner. This has caused and will continue to cause Petitioner to suffer irreparable harm, and has further resulted in the prolongation of his removal proceedings.

144. Finally, the programs responsible for Petitioner's medical neglect are located at various immigration detention facilities throughout California, all of which receive federal financial assistance. *See Moran*, 2020 WL 6083445, at *8.[6] On July 2, 2026, Respondent DHS also purchased both California City Detention Facility and Otay Mesa Detention Center.[7]

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[6] *See* "CoreCivic Announces New Contract Awards At California City Immigration Processing Center and Midwest Regional Reception Center," CoreCivic (September 29, 2025), available at https://ir.corecivic.com/node/24926/pdf ("New contract with ICE to utilize our 2,560-bed California City Immigration Processing Center...We began receiving detainees at the facility on August 27, 2025 under terms of the Letter Contract...Total annual revenue once the activation is complete is expected to be approximately $130 million"); *see also* Form 10-K for CoreCivic, filed with the U.S. Securities and Exchange Commission for the fiscal year ending on December 31, 2025, available at https://ir.corecivic.com/static-files/209d2ac2-d6f2-4fa6-8be0-ef1c2f127e58 (listing ICE as the "primary customer" of California City Immigration Processing Center and Otay Mesa Detention Center).

[7] "CoreCivic Sells Two Detention Facilities," CoreCivic (July 6, 2026), available at https://ir.corecivic.com/news-releases/news-release-details/corecivic-sells-two-detention-facilities ("CoreCivic... announced today that on July 2nd, 2026, it completed the sale...to the United States of America and its assigns, by and through

145. Thus, Petitioner's continued detention is unlawful under § 504 of the Rehabilitation Act. Given the irreparable harm due to Respondents' medical negligence that Petitioner has suffered, and Respondents' past retaliation and discrimination against Petitioner, the only remedy is immediate release from custody so that he can obtain independent medical and psychological treatment. Releasing Petitioner is critical to his health and safety, and would not pose a danger to the community or public interest. *See also Domingo v. Barr*, No. 20-CV-06089-YGR, 2020 WL 5798238, at *2 (N.D. Cal. Sept. 29, 2020) (granting release to the petitioner, whom the IJ had denied bond based on a finding of danger and flight risk).

III. If Outright Release is not Ordered, this Court Should Conduct the Bond Hearing Because it is the Only Neutral Adjudicator, and at that Hearing, Respondents Must Establish their Burden of Proof By Clear and Convincing Evidence.

a. Widespread evidence of EOIR's institutional bias demonstrates that this Court is the only neutral adjudicator.

146. There is widespread evidence of EOIR's institutional bias, which demonstrates the destruction of judicial independence before the IJ and BIA. As such, this Court is the only neutral adjudicator who may conduct a full and fair evidentiary bond hearing for Petitioner.

147. At the outset, the U.S. Department of Justice has engaged in the mass-scale purge of IJs perceived as obstacles to their enforcement agenda. In 2025 alone, more than 100 judges were fired.[8] The terminated and resigned IJs report three consistent themes: (1) explicit pressure to serve as instruments of mass deportation and advance policy objectives, rather than neutral adjudicators exercising due

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the Department of Homeland Security for…$732.6 million for the California City Facility and $739.2 million for the Otay Mesa Facility").

[8] *Trump Administration Continues Firing IJs -- IFPTE responds*, IFPTE (Sept. 26, 2025), https://www.ifpte.org/news/trump-administration-continues-firing-immigration-judges-ifpte-respondsnbsp.

process;[9] (2) a pervasive climate of fear and paranoia designed to ensure compliance or face the threat of being fired;[10] and (3) the inevitable compromise of judicial independence when self-preservation requires favoring the government. Former San Francisco IJ Elizabeth Young explained: "I've talked to many of [the judges still serving], and they're like, 'When I go into court, I am concerned about applying the law, but I'm also concerned that I should deny more, because if I don't, then I'll get fired.'"[11] Former Boston IJ Sarah Cade reached her breaking point: "I felt I might have to compromise my ethics and might be put in a place where I felt like I was going to be asked to violate due process. So I left and I went to private practice."[12]

148. As can be seen, for a while now, there has been significant evidence that hearings in immigration court have been regarded as "law-free zones" and "implicit bias minefields." Mary Holper, *Discretionary Immigration Detention*, 74

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[9] Geoff Bennett & Ali Schmitz, *Ousted IJ Describes Deepening Court Backlog*, PBS NewsHour (Nov. 12, 2025), https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog; Hilda Gutierrez, Michael Bott & Son Vo, *'An all-out attack on immigration court:' SF IJs speak out after firings*, NBC Bay Area (Nov. 25, 2025), https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/; Marco Poggio, *Judges See an Immigration Court Gutted from Inside*, Law360 (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside ("Due process is dead in immigration courts").

[10] Poggio, *supra*, note 9; Eric Katz, *'Climate of Fear': IJs Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings*, Gov't Executive (Nov. 14, 2025), https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-syste m-jeopardy-due-trumps-firings/409544/; Isabela Dias, *"Fired for No Reason": Former IJs Speak Out Against Trump's Assault on the Courts*, Mother Jones (Oct. 9, 2025), https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/.

[11] Poggio, *supra*, note 9.

[12] Poggio, *supra*, note 9.

Duke L.J. 961, 972 (2025). To begin, IJs are by definition not independent adjudicators. They are career attorneys who are employed by DOJ and thus report to the Attorney General, an appointee of the executive branch, making them "very susceptible to pressure from above to decide cases in a certain way." *Accord* Karen Musalo et. al., *With Fear, Favor, and Flawed Analysis: Decision-Making in U.S. Immigration Courts*, 65 B.C. L. Rev. 2743, 2755 (2024); Holper, 74 Duke L.J. at 1010 (describing an IJ as "a prosecutor masquerading as a judge.").

149. "[M]any" of the IJs who were fired *en masse* were removed "seemingly because their judicial philosophies did not align with the administration's priorities."[13] One recently fired IJ who served in that position for twenty years observed:

> I think the current administration . . . does not see the immigration courts as neutral decision-makers. I think that they see immigration courts as a tool for this administration to advance its policy objectives.[14]

150. Similarly, former IJ, Dana Leigh Marks, states the following:

> In my opinion, due process is no longer the norm in the immigration court system. Current IJs cannot be relied on to act as neutral arbiters. This is a structural flaw and not an accusation against any particular sitting judge. Since the beginning of 2025, the administration has fired over 100 IJs for their failure to align with the administration's priorities. I personally know and have worked with many veteran judges who have been terminated without good cause, violating their established civil service protections. They are, without exception, hard-working, knowledgeable, and fair jurists. While no stated reason

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

[14] Bennett, Geoff and Ali Schmitz, "Ousted IJ describes deepening court backlog" PBS News Hour (Nov. 12, 2025), available: https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog.

> was given to these judges for their terminations, the observable trend is that judges with high asylum grant rates and professional backgrounds defending immigrants are the ones being fired *en masse*. **In other words, the administration is not interested in maintaining a qualified, fair bench, but in finding "deportation judges" to advance its policy agenda.**
>
> In addition to mass firings, the administration has taken extraordinary other steps to send a message to IJs that they must rule consistently with the administration's anti-immigrant agenda. For example, the administration issued a policy memorandum on June 27, 2025, stating that "there are some IJs who appear to believe – based on their own personal policy preferences – that exhibiting bias is justifiable in certain situations, as long as that bias is in favor of an alien and against the Department of Homeland Security (DHS)." **The message in that policy memo is clear: side with DHS, or lose your jobs.**

See Sinodis Decl. at Ex. X (Declaration of Dana Leigh Marks) (internal citations omitted) (emphasis added).

151. Shira Levine, another IJ fired during this administration, states the following:

> **The first time I received guidance attempting to influence my decisions in the courtroom outside of such binding legal precedent was in 2025.** Over the months I served as an IJ in 2025, I received a series of publicly available policy memorandums that indicated how cases should be decided. At the same time, judges at the San Francisco Immigration Court began to be fired without cause or explanation. **The guidance we received from the Agency along with the termination of IJs created the understanding that decisions which did not further the executive branch's enforcement priorities could put a judge's employment at risk.** Despite these pressures, I did not change how I ruled on case[s]. I was fired without cause or explanation.
>
> Prior to my termination, EOIR issued a policy memorandum that indicated that the way judges ruled could be used to justify their termination. EOIR Policy Memorandum 25-42 (Aug. 22, 2025). This memorandum ignored that appeals are the procedural means of challenging legal decisions. Fewer than three percent of my cases were

> appealed during the four years I was on the bench and none of those cases were reversed while I was an IJ. Nonetheless, the policy memorandum focused on case outcomes. Many of the judges, including myself, who were targeted for termination had above average grant rates. **To me, this indicated that terminations targeted judges who were not furthering the Agency's immigration enforcement policies but were instead seeking to evenly interpret the law in each case.**

Id. at Ex. Y (Declaration of Shira Levine). (emphasis added); *see also id.* at Ex. Z (Declaration of Lawrence O. Burman) ("Although [IJs] are expected to act as neutral adjudicators, I have noticed increasing concern among members of the bench about institutional intimidation and the perception that decisions unfavorable to the government could negatively affect judicial tenure.").

152. At the same time, the administration is actively recruiting for attorneys to become new IJs, whose employment would be even more clearly based on the pleasure of the Attorney General. Among these new hires are military lawyers who are being recruited to sit as IJs after minimal training.[15] The move alarms legal experts for myriad reasons, including because of the president's outsized influence over the military. *Id.* The administration has even widely issued policy guidance admitting that DHS (its enforcement arm) is actively coordinating with the DOJ (under which the BIA and IJs sit) to expand mandatory detention.[16] The DOJ has also launched a campaign to hire new IJs that advertises the position as "deportation judges" and describes it as an opportunity to "[b]ring the hammer down on criminal illegal aliens . . . Defend your communities, your very way of

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[15] Villarreal, Alexandra, "Hiring of military lawyers as IJs alarms law experts" The Guardian (Sept. 22, 2025), available at: https://www.theguardian.com/us-news/2025/sep/22/trump-administration-military-lawyers-immigration-judges.

[16] Interim Guidance from U.S. Department of Homeland Security to All ICE Employees Re: "Detention Authority for Applications for Admission" (July 8, 2025), available at: https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

life."[17] This is evidence that the Immigration Court cannot be a neutral adjudicator when one of the parties before the Court is the same branch of the government that also supervises the Immigration Court itself, and has made its displeasure known regarding judges *whose decisions it did not like* by terminating their employment.

153. The message to remaining IJs is unmistakable: neutrality is a terminable offense. No adjudicator can remain impartial when faced with the choice between upholding due process and keeping their position. Any IJs assigned to Petitioner's evidentiary bond hearing would operate under the understanding that finding in his favor may cost them their livelihood.

154. In addition, the DOJ has authorized up to 600 military lawyers to serve as temporary IJs for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary IJ.[18] Previously, temporary judge candidates were required to have served as a former IJ, appellate IJ, or administrative judge within another agency, or to have at least 10 years of immigration law experience. The administration removed those requirements entirely, allowing "any attorney" to be selected as a temporary IJ and reduced training to approximately two weeks—far less than the standard training for permanent IJs, which includes six weeks of initial training, one year of mentorship by an experienced judge, and two years of quarterly reviews.[19] Corey Lewandowski, an adviser to DHS Secretary Noem, responded to the announcement by posting: "I see more deportations of illegal immigrants in the near future"[20]—an explicit acknowledgment of the mass deportation policy objective underlying

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[17] Gutierrez, *supra*, note 9.

[18] Designation of Temporary IJs, 90 Fed. Reg. 41,883 (Aug. 28, 2025).

[19] Margy O'Herron, *Using Military Lawyers as IJs is Ill-Advised and Potentially Illegal*, Brennan Ctr. for Just. (Sept. 29, 2025), https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-an d-potentially.

[20] Corey R. Lewandowski (@CLewandowski_), X (Sept. 2, 2025, 1:47 PM), https://x.com/clewandowski_/status/1962950546652070269.

these appointments and the erosion of institutional boundaries between DOJ and DHS. In December, one of the appointed temporary judges was fired just a month into his six-month term. "That judge, Christopher Day, had granted asylum claims in just over half the cases he heard."[21]

155. Beyond personnel changes, EOIR's new acting director, Sirce E. Owen, quickly issued "a string of sharply worded policy memos" that immediately "[set] the tone for her leadership."[22] "Sources familiar with Owen described her as a "restrictionist loyalist" with a reputation for denying cases."[23]

156. The Catholic Legal Immigration Network ("CLINIC") observed that "these memos also seem intended to reshape EOIR, which is meant to be a neutral arbiter, into a politically driven tool advancing the Trump administration's clearly anti-immigrant views."[24] The policy directives include: a memorandum dated June 27, 2025 warning IJs not to demonstrate "bias directed against DHS" or to be "adjudicatory outliers," at risk of "close examination and potential action";[25] a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to

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[21] Radley Balko, "The courts are dead." An interview with a fired IJ, The Watch (Jan. 8, 2026), https://radleybalko.substack.com/p/the-courts-are-dead-an-interview.

[22]Dias, "'The Entire System Will Collapse': Inside the Purge of US Immigration Courts," Mother Jones (Mar. 6, 2025), https://www.motherjones.com/politics/2025/03/trump-immigration-courts-firing-doge-nonsensical-system-collapse-eoir/.

[23] Dias, *supra*, note 10.

[24] Cath. Legal Immigr. Network, Inc., *Navigating EOIR Directives Under Trump 2.0: Practical Guidance for Advocates and Programs* (Apr. 22, 2025), https://www.cliniclegal.org/file-download/download/public/77642.

[25] EOIR, Policy Memorandum 25-33, Neutrality and Impartiality in Immigration Court Proceedings (June 27, 2025), https://iptp-production.s3.amazonaws.com/media/documents/2025.06.27_EOIR_-_PM_25-33.pdf.

reduce due process protections;[26] and memorandums restricting IJs' ability to grant continuances[27] and administrative closure.[28]

157. Accordingly, federal courts have expressed serious concerns that IJs are not affording fair bond hearings, as was Petitioner's case already. *See e.g., Pal*, 2026 WL 937962, *4; *Singh*, No. 1:26-cv-01109, slip op. at 10-11; *Juan T.R.*, 2026 WL 232015, at *1, *supplemented*, 2026 WL 555601; *Qazi v. Albarran*, No. 2:25-CV-02791-TLN-CSK, 2025 WL 3033713, at *6 n.2 (E.D. Cal. Oct. 10, 2025) ("Based on Petitioner's request, the Court orders the hearing to occur before a neutral adjudicator. However, the Court expresses serious doubt as to whether the use of Immigration Officers to make factual findings and determinations comports with due process.") (citation omitted). Because this Court is the only neutral adjudicator, if immediate release is not granted, the Court should conduct a bond hearing, as other courts have done. *See, e.g., Zheng v. Albarran*, No. 1-25-cv-01685-DJC-CKD, 2025 WL 3640676, *4 (E.D. Cal. Dec. 16, 2025); *Ozturk*, 2025 WL 1355667, at *1 (ordering release after holding bail hearing); *Mahdawi*, 781 F. Supp. 3d at 235; *Suri III*, 2025 WL 1392143, at *1, *aff'd*, No. 25-1560, 2026 WL 2123557 (4th Cir. July 23, 2026); *Khalil*, No. 2:25-cv-01963-MEF-MAH, Dkt. 316 (D.N.J. Jun. 20, 2025).

b. At any custody hearing before this Court, due process requires that Respondents bear the burden of proof by clear and convincing evidence.

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[26] EOIR, Policy Memorandum 25-28, Pretermission of Legally Insufficient Application for Asylum (Apr. 11, 2025), https://www.justice.gov/eoir/media/1396411/dl?inline.

[27] EOIR, Policy Memorandum 25-27, Cancellation of Director's Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13 (Mar. 21, 2025), https://www.justice.gov/eoir/media/1394086/dl.

[28] EOIR, Policy Memorandum 25-29, Cancellation of Director's Memorandum 22-03 (Apr. 18, 2025), https://www.justice.gov/eoir/media/1397161/dl?inline.

158. At any evidentiary or custody hearing before this Court, due process requires that DHS bear the burden of proof by clear and convincing evidence to justify Petitioner's continued detention. *See Singh*, 638 F.3d at 1203.

159. First, Judge Calabretta already concluded that this was the proper standard in Petitioner's circumstances and ordered Respondents to meet this burden. *Doe*, 787 F.Supp.3d at 1090, 1096. Given the egregious constitutional violations that Petitioner has suffered in the fifteen months following that order, the justification for applying that standard is even greater now and no circumstances justify departing from that determination or lowering the standard.

160. Second, where the Supreme Court has permitted civil detention in other contexts, including in prolonged detention, it has relied on the fact that the government bore the burden of proof by at least clear and convincing evidence. *See Singh*, 638 F.3d at 1205 (holding that the government must prove flight risk or dangerousness by clear and convincing evidence); *see also Foucha v. Louisana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final order custody review procedures deficient because, *inter alia*, they placed the burden on the detainee). Other circuit courts of appeal have also held that the government must bear the burden of proof in a bond hearing where the noncitizen has been detained for a prolonged period. *See Velasco Lopez v. Decker*, 978 F.3d 842, 847 (2d Cir. 2020); *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021). Further, numerous courts in the Ninth Circuit—including in this district—have found that due process demands that the government must bear the burden to justify civil detention especially in circumstances involving prolonged detention and given the liberty interests at stake as in Petitioner's case. *See e.g.*, *Mashiyev v. LaRose*, No. 26-CV-04180-BAS-BLM, 2026 WL 2227362, at *1-2 (S.D. Cal. Aug. 3, 2026); *Garcia Rodriguez v. Chestnut*, No. 1:26-CV-04548-DJC-CKD, 2026 WL 2110873, at *5 (E.D. Cal. July 22, 2026), *report and recommendation adopted sub nom. Rodriguez v. Chestnut*, No. 1:26-

CV-04548-DJC-CKD, 2026 WL 2172202 (E.D. Cal. July 28, 2026); *Singh v. Garland*, No. 1:23-cv-01043-EPG-HC, 2023 WL 5836048, *11 (E.D. Cal. Sept. 8, 2023); *see also Lopez v. Garland*, 631 F. Supp. 3d 870, 882 n.9 (E.D. Cal. 2022); *Sho v. Current or Acting Field Off. Dir.*, No. 1:21-CV-01812 TLN AC, 2023 WL 4014649, *5 (E.D. Cal. June 15, 2023), *report and recommendation adopted*, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21, 2023).

161. Third, the Ninth Circuit has held that "due 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." *Singh*, 638 F.3d at 1204 (internal quotations omitted).

FIRST CAUSE OF ACTION

Failure to Provide Constitutionally Compliant Bond Hearing Based on Materially Changed Circumstances In Violation of the INA and Its Regulations

162. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the allegations in all the preceding paragraphs.

163. A request for a new bond hearing must be in writing and accompanied by a showing that the individuals circumstances "have changed materially since the prior bond redetermination." 8 C.F.R. § 1003.19(e). The BIA has generally defined evidence of changed circumstances as evidence that is material and was unavailable at the initial hearing. *See Matter of Coelho*, 20 I&N Dec. at 473. Petitioner met that standard.

164. Respondents failed to provide Petitioner with a custody redetermination hearing despite Petitioner establishing a material change in circumstances.

165. Petitioner is currently being incarcerated without any neutral adjudicator determine whether he presents a current risk of danger to the community.

166. Petitioner should therefore be immediately released, or, at a minimum, provided with an evidentiary hearing before this Court where Respondents bear the

burden of showing, by clear and convincing evidence of his dangerousness and flight risk.

SECOND CAUSE OF ACTION

Violation of Fifth Amendment Due Process Clause – Procedural Due Process

167. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the allegations in all the preceding paragraphs.

168. 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. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690. As noted, these protections extend to noncitizens facing removal. *Id.*

169. The Due Process Clause prohibits the federal government from depriving any person of liberty without adequate procedural safeguards, including, at minimum, a meaningful opportunity to be heard before a neutral decisionmaker.

170. The lack of adequate procedural safeguards creates a substantial risk of erroneous deprivation of Petitioner's fundamental liberty interest, including irreparable harm to his physical and psychological health .

171. Respondents' actions and omissions violate Petitioner's rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

THIRD CAUSE OF ACTION

Violation of Fifth Amendment Due Process Clause – Substantive Due Process

172. Petitioner re-alleges and incorporates herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

173. "[D]ue process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed." *Jackson*, 406 U.S. at 738. The two permissible purposes of civil

immigration detention at to prevent danger to the community or flight risk. *See Zadvydas*, 533 U.S. at 690.

174. Here, however, Petitioner's prolonged detention of over seventeen months and the punitive conditions of his confinement—a direct result of Respondents' egregious medical negligence, unreasonable medical treatment, and excessive medical deprivations—serve neither purpose.

175. Given Petitioner's deep family and community connections to the United States, his documented history of complying with the conditions of his release, evidence that he has never been convicted of a crime anywhere in the world and that his Red Notice was deleted, and evidence of his severe and significant medical and psychological health issues, there is no legitimate justification for his detention, rendering his detention punitive and unconstitutional. The Due Process Clause therefore requires his immediate release or, at minimum, the provision of a constitutionally-compliant custody redetermination hearing before a neutral adjudicator where Respondents bear the burden by clear and convincing evidence.

FOURTH CAUSE OF ACTION

Continued Detention Violates Section 504 of the Rehabilitation Act

176. Petitioner re-alleges incorporates herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

177. "[T]he Rehabilitation Act of 1973 prohibits discrimination against handicapped persons in any program or activity receiving federal financial assistance." *U.S. Dep't of Transp.*, 477 U.S. at 599. The Rehabilitation Act requires federal agencies to provide reasonable accommodations to individuals so that they can fully participate in benefits administered by these agencies. 29 U.S.C. § 794(a).

178. Petitioner suffers from qualifying medical and psychological disabilities, and he has been egregiously deprived of medical and psychological care while in Respondents' custody. Respondents have engaged in a pattern of medical negligence, denial of medical care, and punitive conduct against Petitioner based

on his disability. The only remedy is immediate release from custody so that Petitioner can obtain independent medical and psychological care.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Enjoin Respondents from continuing to detain Petitioner and order the immediate release of Petitioner from DHS custody;

(3) Order the immediate release of Petitioner from custody on any other basis that this Court finds proper;

(4) Declare that Petitioner's conditions of confinement by ICE are punitive and in violation of the Due Process Clause;

(5) Declare that Petitioner's incarceration has become prolonged and punitive, in violation of the Due Process Clause;

(6) In the alternative, order a bond hearing be held before this Court within seven days, at which Respondents must prove, by clear and convincing evidence, that Petitioner is a current danger and flight risk;

(7) Order that, when Petitioner is released, he be released under the same release conditions prior to his arrest, including not placing him on the Intensive Supervision Appearance Program or any other form of electronic monitoring, unless this Court finds such conditions necessary;

(8) Award Petitioner reasonable costs and attorney fees; and

(9) Grant such further relief as the Court deems just and proper.

Dated: August 7, 2026

Respectfully submitted,

/s/ Johnny Sinodis
Johnny Sinodis
Valeria Vera
Attorneys for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am his attorney. I have discussed with Petitioner the events described in the Petition. Based on those discussions, 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.

Executed on this August 7, 2026, in San Francisco, CA.

/s/ Johnny Sinodis
Johnny Sinodis
Attorney for Petitioner