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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**

8 [REDACTED]
9
10 Case No. 2:25-cv-1819

11 *Petitioner,*

12 v.

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

13 Cammilla WAMSLEY, Seattle Field Office
14 Director, Enforcement and Removal
15 Operations, United States Immigration and
16 Customs Enforcement (ICE); Bruce SCOTT,
17 Warden, Northwest ICE Processing Center;
18 Kristi NOEM, Secretary, United States
19 Department of Homeland Security; Pamela
20 BONDI, United States Attorney General;
21 UNITED STATES DEPARTMENT OF
22 HOMELAND SECURITY;
23

Respondents.

INTRODUCTION

1. Petitioner [REDACTED] (Mr. [REDACTED] a lawful permanent resident of the United States, is detained by Immigration and Customs Enforcement (ICE) at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. He has been detained for over eighteen months pending removal proceedings.

2. The central fact in this case is that Mr. [REDACTED] is no longer deportable from the United States, nor is he subject to the mandatory detention statute relied on by the immigration judge (IJ). In January 2020, Mr. [REDACTED] pled guilty to a criminal offense in the state of California that rendered him deportable from the United States. Because Mr. [REDACTED] did not receive accurate advice regarding the legal consequences of his guilty plea, he sought to vacate that conviction. In February 2025, the Superior Court of California for the County of Nevada vacated Mr. [REDACTED] conviction, and Mr. [REDACTED] then entered a plea to two convictions that do not carry immigration consequences. As a result, Mr. [REDACTED] is no longer deportable from the United States and retains his lawful permanent resident status.

3. Despite no longer having a lawful basis, ICE continues to detain Mr. [REDACTED] Prior to the vacatur of Mr. [REDACTED] prior conviction, the Department of Homeland Security (DHS) issued a Notice to Appear (NTA) in his case, alleging deportability under 8 U.S.C. § 1227(a)(2)(A)(iii), and detained him subject to mandatory detention under 8 U.S.C. § 1226(c). Following the vacatur of his conviction, while waiting several months for the Board of Immigration Appeals (BIA or Board) to issue an order vacating his removal order, Mr. [REDACTED] sought to be released from ICE custody. BIA precedent allows an individual to challenge mandatory detention under 8 U.S.C. § 1226(c) where DHS is not likely to prevail on its charge of deportability, as is the case for Mr. [REDACTED]

1 4. Nonetheless, the IJ presiding over Mr. █████ scheduled bond hearing refused to
2 consider release on bond, ruling that Mr. █████ remains subject to mandatory detention per 8
3 U.S.C. § 1226(c). The IJ asserted that, although Mr. █████ revised conviction did not trigger
4 deportability under 8 U.S.C. § 1227, it does trigger the inadmissibility grounds under 8 U.S.C.
5 § 1182(a)(2).

6 5. The IJ's decision is plainly contrary to law because Mr. █████ is only subject to
7 the grounds of deportability, not the grounds of inadmissibility. Yet in a punitive manner, the IJ
8 refused to even consider Mr. █████ release, citing to grounds which are inapplicable to his case.

9 6. Mr. █████ is a lawful permanent resident who is not presently seeking admission
10 to the United States and who is not otherwise subject to grounds of removal. His detention is thus
11 in violation of the Immigration and Nationality Act (INA). Accordingly, Mr. █████ asks the Court
12 to grant a writ of habeas corpus and order his immediate release because there is no lawful basis
13 to detain him.

14 7. His unlawful detention is exacerbated by Respondents' failure to provide
15 necessary medical care for Mr. █████ Crohn disease. Respondents have failed to provide Mr.
16 █████ adequate treatment for this serious and chronic medical condition. While he received
17 effective medical treatment and was in remission for the years that he spent in pre-trial and
18 criminal custody, his medical condition has regressed in ICE custody. ICE has ignored or
19 adversely delayed medical treatment for Mr. █████ chronic condition. Because his symptoms
20 have gone untreated, Mr. █████ endures daily physical suffering.

21 8. The Due Process Clause of the Fifth Amendment to the U.S. Constitution also
22 forbids Mr. █████ prolonged, unjustified detention of over eighteen months. His continued
23

1 detention is punitive and serves no legal purpose. Mr. [REDACTED] asks that the Court declare his
 2 continued detention unconstitutional as applied to him, and to order his immediate release.

3 JURISDICTION

4 9. Petitioner [REDACTED] [REDACTED] [REDACTED] is in the physical custody of Respondents at the
 5 NWIPC in Tacoma, Washington.

6 10. This action arises under the INA, 8 U.S.C. § 1101–1537 and the Due Process
 7 Clause of the Fifth Amendment of the Constitution of the United States.

8 11. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C.
 9 § 1331 (federal question).

10 12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
 11 Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

12 REQUIREMENTS OF 28 U.S.C. § 2243

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

17 14. Habeas corpus is “perhaps the most important writ known to the constitutional
 18 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
 19 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
 20 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
 21 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
 22 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d
 23

735, 737–38 (9th Cir. 1954) (Habeas corpus is “a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination.”).

VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Western District of Washington, the judicial district in which ICE keeps Mr. [REDACTED] in civil custody.

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

PARTIES

17. Petitioner [REDACTED] [REDACTED] [REDACTED] is a citizen of Jamaica and lawful permanent resident of the United States currently in removal proceedings on the basis of a criminal conviction that has since been vacated. He is no longer deportable from the United States. ICE has detained Mr. [REDACTED] for over eighteen months and has failed to adequately treat his chronic medical condition. ICE currently detains Mr. [REDACTED] at NWIPC.

18. Respondent Cammilla Wamsley is the Director of the Seattle Field Office of ICE’s Enforcement and Removal Operations division. As such, Ms. Wamsley is responsible for Petitioner’s detention and removal. She is named in her official capacity.

19. Respondent Bruce Scott is employed by the private corporation The Geo Group, Inc., as Warden of the NWIPC, where ICE detains Petitioner. ICE contracts with the GEO Group, a private corporation, to hold noncitizens in its custody at the NWIPC. Respondent Scott

1 detains Mr. [REDACTED] via the NWIPC contract between ICE and GEO Group. He has immediate
2 physical custody of Mr. [REDACTED]. He is sued in his official capacity.

3 20. Respondent Kristi Noem is the Secretary of the Department of Homeland
4 Security (DHS). She is responsible for the implementation and enforcement of the INA, and
5 oversees ICE, which is responsible for Mr. [REDACTED] detention. Ms. Noem has ultimate custodial
6 authority over Mr. [REDACTED] and is sued in her official capacity.

7 21. Respondent Pamela Bondi is the Attorney General of the United States. She is
8 responsible for the Department of Justice (DOJ) and oversees the Executive Office for
9 Immigration Review (EOIR) and the immigration court system. She is sued in her official
10 capacity.

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

14 **FACTUAL ALLEGATIONS**

15 23. Mr. [REDACTED] entered the United States as a lawful permanent resident on October 19,
16 2012. Decl. of Ilyce Shugall (Shugall Decl.) ¶ 4; Ex. A; Ex. F ¶ 2; Ex. B ¶ 4.¹ Mr. [REDACTED]
17 immigrated via his father, who has since passed away. Ex. F ¶ 2. Except for brief departures, the
18 last of which occurred in 2015, Mr. [REDACTED] has resided in the U.S. ever since, for nearly thirteen
19 years. Shugall Decl. ¶ 4; Ex. F ¶ 2.

20 24. Mr. [REDACTED] has extensive family in the United States. Ex. F ¶ 3. His mother is a
21 lawful permanent resident. *Id.* He has one full biological sister who is a U.S. citizen, as well as
22 five half-siblings who are all U.S. citizens. *Id.*

23

¹ All exhibits referenced in this memorandum are exhibits to the Declaration of Ilyce Shugall.

1 25. On January 31, 2020, Mr. [REDACTED] was convicted in the Superior Court of California
2 for the County of Nevada (Superior Court) of a violation of Cal. Penal Code § 211. *Id.* ¶ 4. The
3 Superior Court sentenced him to six years for the conviction and an additional three years for an
4 enhancement under Cal. Penal Code § 12022.5(a). Shugall Decl. ¶ 10; Ex. B; Ex. F ¶ 4. Mr.
5 [REDACTED] served approximately three years of his sentence in three California Department of
6 Corrections and Rehabilitation (CDCR) fire camps located in Emmett, Mariposa, and Humbolt
7 County, California. Ex. F ¶ 5.

8 26. ICE detained Mr. [REDACTED] on approximately March 12, 2024, after he was paroled
9 from state prison. Shugall Decl. ¶¶ 1, 5. ICE has kept Mr. [REDACTED] in its custody since that time—
10 for over eighteen months.

11 27. ICE issued Mr. [REDACTED] an NTA initiating removal proceedings on March 12, 2024.
12 Ex. A. The NTA alleged Mr. [REDACTED] since-vacated conviction as the sole basis for deportation
13 and charged him with removability under the deportability ground at 8 U.S.C.
14 § 1227(a)(2)(A)(iii). *Id.*

15 28. The IJ sustained the allegation and charge and found Mr. [REDACTED] removable as
16 charged. Shugall Decl. ¶ 7; Ex. C. Mr. [REDACTED] then applied for deferral of removal under the
17 Convention Against Torture (CAT). *Id.*; *see also* 8 C.F.R. § 1208.17. On December 16, 2024, the
18 IJ denied Mr. [REDACTED] application for CAT and ordered him removed to Jamaica. Shugall Decl.
19 ¶ 8; Ex. C. On January 8, 2025, Mr. [REDACTED] filed a notice of appeal with the BIA. *Id.* That appeal
20 remains pending. Ex. C. While his case is on direct appeal Mr. [REDACTED] retains his lawful permanent
21 resident status unless and until the BIA issues a final order of removal.

22 29. Because Mr. [REDACTED] guilty plea was not knowing and involuntary, he sought relief
23 under California Penal Code § 1473.7(a)(1). Ex. B. In February 2025, the Superior Court vacated

1 Mr. █████ conviction. *Id.* The Ninth Circuit has recognized that a vacatur under California
2 Penal Code § 1473.7(a)(1) effectively sets a conviction aside for immigration purposes. *See Bent*
3 *v. Garland*, 115 F.4th 934, 941 (2024). Mr. █████ entered a new plea to a violation of Cal. Penal
4 Code §§ 459 and 25400(a)(3), neither of which make him deportable under 8 U.S.C. § 1227.
5 Shugall Decl. ¶ 11; *see also Sessions v. Dimaya*, 584 U.S. 148, 174–75, (2018); *Medina-Lara v.*
6 *Holder*, 771 F.3d 1106, 1116 (9th Cir. 2014). As a result, Mr. █████ is no longer removable from
7 the United States and will continue to retain his lawful permanent resident status.

8 30. On March 4, 2025, Mr. █████ through counsel, filed a motion to remand with the
9 BIA. Shugall Decl. ¶ 11. The motion seeks remand to the IJ to terminate removal proceedings,
10 given that Mr. █████ is no longer removable. *Id.* After more than six months, the motion to
11 remand remains pending. All the while Mr. █████ remains detained.

12 31. On July 30, 2025, Mr. █████ filed a motion for a bond hearing with the Tacoma
13 Immigration Court. Shugall Decl. ¶ 12; Ex. C. In the motion, Mr. █████ argued that, given the
14 dramatically changed circumstances, namely, the vacatur of his conviction, DHS was
15 “substantially unlikely” to prove its charge of removability in his case and thus he should no
16 longer be subject to mandatory detention under 8 U.S.C. § 1226(c). Ex. C.

17 32. In *Matter of Joseph*, a precedential decision from the BIA, the Board explained
18 that an IJ has jurisdiction to determine whether a noncitizen is properly detained pursuant to 8
19 U.S.C. § 1226(c). 22 I. & N. Dec. 799, 805–06 (BIA 1999). The Board held that if a noncitizen is
20 not deportable, an IJ has authority to determine that § 1226(c) does not apply. *Id.* at 808. To do
21 so, the IJ must look to whether DHS is “substantially likely” to prevail on the underlying charge
22 of removability. Where DHS cannot make this showing, an IJ may assert bond jurisdiction over a
23 lawful permanent resident in DHS custody. *Id.* at 803 (“[T]he structure of the bond regulations

1 means that the Immigration Judge’s jurisdiction over custody issues is dependent on the answer
2 to the very same question that underlies the charge of removability in the case in chief.”).

3 33. Because DHS is not likely to prevail on Mr. [REDACTED] underlying charge of
4 removability, 8 U.S.C. § 1226(c) no longer applies to Mr. [REDACTED]. He is detained under § 1226(a),
5 which allows the immigration court to consider release on bond.

6 34. Nonetheless, on August 6, 2025, the IJ found he lacked jurisdiction to consider
7 Mr. [REDACTED] release on bond, concluding that Mr. [REDACTED] is detained under 8 U.S.C. § 1226(c)
8 despite the vacatur of Mr. [REDACTED] conviction. Ex. G, H. The IJ inexplicably relied on the fact that
9 section 1226(c)(A) authorizes mandatory detention for a noncitizen who “*is inadmissible by*
10 *reason of* having committed any offense covered in section 1182(a)(2)” even though Mr. [REDACTED] is
11 not subject to the grounds of inadmissibility. Ex. H.

12 35. Mr. [REDACTED] is not subject to the grounds of inadmissibility because he is a lawful
13 permanent resident who has not departed the United States subsequent to committing a criminal
14 offense that would potentially render him inadmissible under 8 U.S.C. § 1182(a)(2)(B).

15 36. On August 13, 2025, Mr. [REDACTED] filed a notice of appeal with the Board of the IJ’s
16 decision denying his custody redetermination. Shugall Decl. ¶ 17. The appeal remains pending.
17 *Id.*

18 37. Custody appeals of immigration decisions last, on average, over six months. *See*
19 *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1253 (W.D. Wash. 2025).

20 38. Notably, Mr. [REDACTED] has already been waiting more than six months for the BIA to
21 reverse the removal order based on his vacated conviction and remand proceedings so that they
22 may be terminated by the IJ.
23

1 39. Over the last year of Mr. [REDACTED] detention, he has battled severe symptoms of
2 Crohn's disease, including nausea, vomiting, diarrhea, and fatigue. Shugall Decl. ¶ 20; Ex. D,
3 F ¶ 9. These symptoms are particularly challenging in a carceral setting. Despite Mr. [REDACTED] and
4 his counsel's repeated requests for medical attention and appropriate treatment, ICE has failed to
5 provide him with appropriate medical care or dietary accommodation. Shugall Decl. ¶ 21; Ex. F
6 ¶ 9.

7 40. While Mr. [REDACTED] was in pre-trial custody, he received treatment at the Sierra
8 Nevada Hospital, in Nevada County, California. Shugall Decl. ¶ 13; Ex. D. The treatment
9 included infusion therapy, beginning in approximately December 2018 through approximately
10 March 2019, which successfully managed the symptoms of Mr. [REDACTED] Crohn's disease. Shugall
11 Decl. ¶ 13. Mr. [REDACTED] was in remission for the rest of the time that he was in pre-trial and criminal
12 custody, for over five years, until he came into ICE custody. *Id.*

13 41. While in ICE custody, in approximately July or August 2024, Mr. [REDACTED]
14 experienced a flare-up of his Crohn's disease. Shugall Decl. ¶ 20; Ex. D. After multiple inquiries
15 by Mr. [REDACTED] and his counsel, an ICE deportation officer informed Mr. [REDACTED] counsel that ICE
16 was attempting to expedite a medical appointment for Mr. [REDACTED] with a specialist. Shugall Decl.
17 ¶ 22.

18 42. In the interim, medical staff at GSA put Mr. [REDACTED] on Prednisone sporadically
19 while acknowledging that it is not the appropriate medication for Crohn's disease. *Id.* ¶ 23. The
20 medical staff at GSA also administered Prednisone without a taper, which caused additional side
21 effects for Mr. [REDACTED] *Id.* Medical staff at GSA additionally ordered a special diet on Mr. [REDACTED]
22 behalf, which he never received. *Id.* One staff person at GSA informed Mr. [REDACTED] that there were
23 too many people detained at GSA for the cafeteria to provide a special diet for one person. *Id.*

1 43. Mr. ██████ eventually saw a gastrointestinal specialist in early September 2024 and
2 had a colonoscopy in mid-October 2024. *Id.* ¶ 24; Ex. D. The specialist recommended that Mr.
3 ██████ take Humera, an immunosuppressant. Shugall Decl. ¶ 24. However, GSA medical staff did
4 not provide the medication to Mr. ██████ GSA medical staff told Mr. ██████ on various occasions
5 that while treatment for Crohn’s disease involves immunosuppressant medication, it was not
6 recommended that Mr. ██████ him take an immunosuppressant while at GSA. *Id.* No reason was
7 given for the recommendation.

8 44. On September 30, 2024, Mr. ██████ through counsel, filed a release request with
9 ICE due to ICE’s failure to provide him with necessary medical care. *Id.* ¶ 25. ICE denied Mr.
10 ██████ request for release request on October 18, 2024. *Id.*

11 45. ICE subsequently transferred Mr. ██████ from the GSA to NWIPC. *Id.* ¶ 26. At
12 NWIPC, Mr. ██████ directly and via counsel continued to seek medical treatment. *Id.* After
13 repeated requests to ICE and NWIPC medical staff by counsel, in which counsel requested that
14 Mr. ██████ receive necessary medical treatment and dietary accommodation, NWIPC scheduled
15 Mr. ██████ to see a specialist. *Id.*

16 46. On approximately June 8, 2025, before Mr. ██████ could see the specialist for
17 another colonoscopy, ICE transferred Mr. ██████ to the Anchorage Correctional Complex (ACC)
18 in Anchorage, Alaska. *Id.* The transfer occurred for unknown reasons. *Id.*

19 47. Three weeks later, on June 30, 2025, ICE again transferred Mr. ██████ back to
20 NWIPC. *Id.* Upon Mr. ██████ return to NWIPC, medical staff informed him that he had missed
21 his appointment with the specialist. *Id.* Medical staff further informed Mr. ██████ that they would
22 re-schedule his appointment with a specialist. Mr. ██████ subsequently had a colonoscopy on
23 September 5, 2025. *Id.*

48. Mr. [REDACTED] continues to battle the physical symptoms of his disease daily, including nausea, vomiting, diarrhea, and fatigue. *Id.* ¶ 27.

I. Mr. [REDACTED] continued detention violates the INA as he is no longer subject to removal and is not subject to mandatory detention under 1226(c).

49. DHS took Mr. [REDACTED] into custody and initiated removal proceedings based on his prior conviction pursuant to Cal. Penal Code § 211. While DHS may have had initial justification to detain Mr. [REDACTED] for this reason, that justification has ceased to exist.

50. The INA authorizes detention for noncitizens facing removal proceedings under 8 U.S.C. § 1229a. *See* 8 U.S.C. § 1226(a). Individuals whose detention is governed by § 1226(a) are entitled to a bond hearing, while noncitizens with certain criminal convictions are subject to mandatory detention, *i.e.*, detention without review. *See id.* § 1226(c).

51. 8 U.S.C. § 1226(c)(1)(A) provides that a noncitizen is subject to mandatory detention if “inadmissible by reason of having committed any offense covered in 1227(a)(2).” Likewise, § 1226(c)(1)(B) provides that a noncitizen is subject to mandatory detention if “deportable by reason of having committed any offense covered in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D).”

52. The statute’s requirement that the noncitizen be “inadmissible by reason of” or “deportable by reason of” means that the conviction cited as the basis for mandatory detention must be “one of the offenses of removal in the noncitizen’s removal proceeding.” *Barton v. Barr*, 590 U.S. 222, 234 (2020) (emphasis omitted). As the Supreme Court explained in *Barton*, “the statutory text and context of those provisions support that limitation.” *Id.* at 235.

1 53. This means that if a lawful permanent resident is not subject to a ground of
2 inadmissibility cross-referenced in § 1226(c) in their removal proceeding, then that ground of
3 inadmissibility cannot form the basis for their mandatory detention under § 1226(c).

4 54. Under the INA, a noncitizen may be charged as removable under either grounds
5 of inadmissibility or grounds of deportability. However, the grounds of inadmissibility at 8
6 U.S.C. § 1182 apply to a lawful permanent resident in only limited circumstances, primarily
7 where the individual previously committed an offense under § 1182, departed the United States,
8 and now seeks re-entry. *See* 8 U.S.C. § 1101(a)(13)(C).

9 55. Otherwise, lawful permanent residents like Mr. [REDACTED] are only removable under
10 grounds of deportability at 8 U.S.C. § 1227, as grounds of inadmissibility do not apply to them.

11 56. Mr. [REDACTED] sought vacatur of the conviction underlying his charge of removability
12 under California's post-conviction relief statute, Cal. Penal Code § 1473.7(a)(1). The Superior
13 Court of California subsequently vacated Mr. [REDACTED] conviction in February 2025.

14 57. Accordingly, Mr. [REDACTED] is no longer removable from the United States. Moreover,
15 because Mr. [REDACTED] is not seeking to reenter the United States and thus not seeking admission, the
16 grounds of inadmissibility are inapplicable.

17 58. Therefore, contrary to the IJ's finding, Mr. [REDACTED] is not subject to mandatory
18 detention under 8 U.S.C. § 1226(c) by virtue of that provision's reference to 8 U.S.C. §
19 1182(a)(2).

20 59. Respondents' mandatory detention of Mr. [REDACTED] is not authorized by the INA.

21 **II. Mr. [REDACTED] continued detention violates substantive due process because it is legally**
22 **unjustified, and the nature and length are punitive.**

23 60. Respondents' detention of Mr. [REDACTED] also violates substantive due process because
it is punitive in nature and serves no lawful purpose.

1 61. The Due Process Clause protects “all ‘persons’”—including all noncitizens—
2 against arbitrary detention. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). “Freedom from
3 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
4 the heart of the liberty” that the Due Process Clause protects. *Id.* at 690.

5 62. Substantive due process prohibits civil detention that is punitive in purpose or in
6 effect, including civil detention that is excessively prolonged in relation to its purpose. *See*
7 *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Put otherwise, “due process requires that the
8 nature and duration of commitment bear some reasonable relation to the purpose for which the
9 individual is committed”; otherwise, the commitment amounts to punishment. *Jones v. Blanas*,
10 393 F.3d 918, 931 (9th Cir. 2004) (quoting *Jackson*, 406 U.S. at 738).

11 63. Moreover, even while the Constitution permits mandatory detention for certain
12 categories of noncitizens in removal proceedings, such confinement may become punitive when
13 it is “excessively prolonged.” *United States v. Salerno*, 481 U.S. 739, 474 n.4 (1987). Thus, as a
14 detained person’s time in custody increases, so too does their liberty interest. *See Zadvydas*, 533
15 U.S. at 699–700. “[F]or detention to remain reasonable,” greater justification is needed “as the
16 period of confinement grows.” *Id.* at 701.

17 64. Accordingly, “at some point, regardless of the risks, due process will require that
18 [a person subject to prolonged civil confinement] be released.” *United States v. Torres*, 995 F.3d
19 695, 709–10 (9th Cir. 2021) (noting that federal government had conceded this point); *see also*
20 *United States v. Briggs*, 697 F.3d 98, 103 (2d Cir. 2012) (stating that “for every set of
21 circumstances, due process does impose some limit” on civil confinement).

22 65. Applying these principles, the Ninth Circuit has held that civil detention violates
23 substantive due process (1) when it is “expressly intended to punish,” or (2) when “the

1 challenged restrictions serve an alternative, non-punitive purpose but are nonetheless excessive
2 in relation to the alternative purpose, . . . or are employed to achieve objectives that could be
3 accomplished in so many alternative and less harsh methods.” *Jones*, 393 F.3d at 932 (citation
4 modified). Mr. [REDACTED] detention is punitive for both reasons.

5 66. These principles apply to civil immigration detention. *Nguyen v. Fasano*, 84
6 F.Supp.2d 1099, 1113 (S.D. Cal. 2000); *see also Zadvydas*, 533 U.S. at 690; *Reid v. Donelan*, 17
7 F.4th 1, 8 (1st Cir. 2021). Because the purpose of immigration detention under § 1226(c) is to
8 effectuate expeditious removal and safeguard the community, immigration detention that does
9 not “bear some reasonable relation” to that purpose in nature or duration amounts to punishment
10 and violates the Due Process Clause. *Jones*, 393 F.3d at 931.

11 67. Mr. [REDACTED] continued detention violates the Due Process Clause of the Fifth
12 Amendment because it is punitive and unduly harsh in nature.

13 68. This is especially true because Mr. [REDACTED] lives with a chronic medical condition,
14 Crohn’s disease. Mr. [REDACTED] medical care while in pretrial and criminal custody was much better
15 than what ICE has provided in the eighteen months that he has spent in its custody.

16 69. While in pre-trial custody, Mr. [REDACTED] received medical treatment that successfully
17 managed his symptoms. As a result, Mr. [REDACTED] Crohn’s disease was in remission for the
18 remainder of his criminal sentence, for over five years. After ICE took Mr. [REDACTED] into its custody,
19 in approximately August of 2024, Mr. [REDACTED] experienced a flare-up and began to suffer from
20 symptoms of Crohn’s disease, including nausea, vomiting, diarrhea, and fatigue.

21 70. Despite repeated requests by Mr. [REDACTED] and his attorney for adequate medical
22 treatment and dietary accommodation, these requests have been ignored or delayed.

1 71. As to medication, medical staff have failed to provide necessary medication,
2 failed to follow through with necessary medical appointments and failed to follow treatment
3 recommendations from doctors who have examined Mr. [REDACTED] while in immigration custody.

4 72. In addition to ICE's failure to provide Mr. [REDACTED] with adequate medical care, the
5 current conditions at NWIPC are punitive and restrictive. These conditions "are similar . . . to
6 those in many prisons and jails," despite its purported characterization as civil confinement.
7 *Reyes v. Wolf*, No. C20-0377-JLR-MAT, 2020 WL 6820903, at *3 (W.D. Wash. Aug. 7, 2020)
8 (citation modified), *R&R adopted as modified*, No. C20-0377JLR, 2020 WL 6820822 (W.D.
9 Wash. Nov. 20, 2020); *see also Parada Calderon v. Bostock*, No. 2:24-CV-01619-MJP-GJL,
10 2025 WL 1047578, at *4 (W.D. Wash. Jan. 17, 2025) (similar), *R&R adopted in part, rejected in*
11 *part*, No. 2:24-CV-01619-MJP-GJL, 2025 WL 879718 (W.D. Wash. Mar. 21, 2025) (concluding
12 this factor favored petitioner). Indeed, for all intents and purposes, NWIPC is a prison.

13 73. Reports by independent outside entities have similarly documented problems with
14 food, medical neglect, cleanliness, and other issues at NWIPC. *See* Univ. of Wash. Ctr. for Hum.
15 Rts., Conditions at the Northwest Detention Center (last accessed August 26, 2025),
16 [https://jsis.washington.edu/humanrights/projects/human-rights-at-home/conditions-at-the-](https://jsis.washington.edu/humanrights/projects/human-rights-at-home/conditions-at-the-northwest-detention-center/)
17 [northwest-detention-center/](https://jsis.washington.edu/humanrights/projects/human-rights-at-home/conditions-at-the-northwest-detention-center/).

18 74. Mr. [REDACTED] continued detention in prison-like conditions, combined with ICE's
19 abject failure to provide necessary medical care, is unduly harsh. Such punitive detention in the
20 civil context amounts to a violation of substantive due process and requires Mr. [REDACTED]
21 immediate release.

22 75. Mr. [REDACTED] has been detained for over eighteen months—about three times the
23 duration of detention without review that the Supreme Court permitted in *Demore v. Kim*, 538

1 U.S. 510 (2003). Mr. [REDACTED] eighteen months of confinement approaches the duration of civil
2 confinement that three courts of appeals—including the Ninth Circuit—have held is the outer
3 limit of civil confinement that the Constitution can withstand, even when *no* conditions of
4 release could accomplish the government’s non-punitive objectives (which is not the case here).

5 76. For example, applying *Salerno*, the Ninth Circuit has held that twenty-one months
6 of pre-trial detention “approach[es] the limits of what due process can tolerate,” even for a
7 defendant awaiting trial who had multiple prior convictions for violent offenses and a history of
8 failing to appear in court. *Torres*, 995 F.3d at 709–10.

9 77. Other circuits have held that far shorter periods of pre-trial or civil confinement
10 violate the Constitution. *See, e.g., United States v. Theron*, 782 F.2d 1510, 1516 (10th Cir. 1986)
11 (holding four months of pretrial detention “too long” and ordering release within thirty days if
12 trial did not commence); *United States v. Gonzales Claudio*, 806 F.2d 334, 343 (2d Cir. 1986)
13 (holding fourteen-month detention unconstitutional and recognizing that “[d]etention that has
14 lasted for fourteen months and, without speculation, is scheduled to last considerably longer,
15 points strongly to a denial of due process”); *United States v. Zannino*, 798 F.2d 544, 548 (1st Cir.
16 1986) (denying release on unique facts of case but “assum[ing] that in many, perhaps most,
17 cases, sixteen months would be found to exceed the due process limitations on the duration of
18 pretrial confinement”).

19 78. Absent this Court’s intervention, Mr. [REDACTED] detention is likely to continue for an
20 unknown period, as there is no clear timeline for a decision on Mr. [REDACTED] motion to remand or
21 on his bond appeal. Moreover, once the BIA remands, Mr. [REDACTED] must wait for a hearing in
22 immigration court. All the while, he remains detained, despite the clear fact that he is a lawful
23 permanent resident who is no longer subject to removal.

1 79. Here, the nature and duration of Mr. [REDACTED] detention are excessive in relation to
2 the government's detention purpose. Indeed, the liberty interest of a person subjected to
3 prolonged civil confinement eventually becomes dispositive, such that *no* degree of government
4 interest, however legitimate, can outweigh it. *See Torres*, 995 F.3d at 709–10 (noting
5 government conceded that “at some point, regardless of the risks . . . due process will require that
6 [a person subject to prolonged civil confinement] be released”).

7 80. Because continued detention violates substantive due process in this case, this
8 Court should issue the writ and order Mr. [REDACTED] release.

9 81. Courts in this circuit regularly issue writs of habeas corpus releasing immigrants
10 whose ongoing custody violates the Constitution when the government cannot justify their
11 prolonged detention. *See, e.g., Doe v. Becerra*, 732 F. Supp. 3d 1071, 1090 (N.D. Cal. 2024);
12 *Judulang v. Chertoff*, 562 F. Supp. 2d 1119, 1127 (S.D. Cal. 2008) (ordering petitioner's release
13 on a motion to enforce a habeas order after an IJ denied bond at a prolonged detention hearing);
14 *Mau v. Chertoff*, 562 F. Supp. 2d 1107, 1118–19 (S.D. Cal. 2008) (same); *Jimenez v. Wolf*, No.
15 19-cv-07996-NC, 2020 WL 1082648, at *4 (N.D. Cal. Mar. 6, 2020) (same); *see also Ekeh v.*
16 *Gonzales*, 197 F. App'x 637, 638 (9th Cir. 2006) (ordering supervised release pursuant to
17 *Zadvydas*); *Nguyen*, 84 F. Supp. 2d at 1113 (issuing order to show cause why petitioner should
18 not be released pursuant to *Zadvydas*).

19 82. Courts in other circuits have done the same. *See, e.g., Madrane v. Hogan*, 520 F.
20 Supp. 2d 654, 667 (M.D. Pa. 2007) (finding “extended detention” under § 1226(c) violates due
21 process and granting habeas writ); *Bah v. Cangemi*, 489 F. Supp. 2d 905, 919 (D. Minn. 2007)
22 (same); *Lawson v. Gerlinski*, 332 F. Supp. 2d 735, 744–45 (M.D. Pa. 2004) (concluding that
23

1 petitioner's prolonged immigration detention violated substantive due process and ordering
2 release).

3 83. Courts also issue writs of habeas corpus releasing detained noncitizens when
4 conditions of confinement are excessive in relation to the person's flight risk or danger to the
5 community. *See, e.g., Doe v. Becerra*, 732 F. Supp. 3d at 1089–90; *Bent v. Barr*, 445 F. Supp. 3d
6 408, 414–15, 421 (N.D. Cal. 2020); *Doe v. Barr*, No. 20-cv-02141-LB, 2020 WL 1820667, at
7 *8–10 (N.D. Cal. Apr. 12, 2020); *Ortuño v. Jennings*, No. 20-cv-02064-MMC, 2020 WL
8 1701724, at *3–5 (N.D. Cal. Apr. 8, 2020); *Doe v. Barr*, No. 20-cv-02263-RMI, 2020 WL
9 1984266, at *6–7 (N.D. Cal. Apr. 27, 2020).

10 84. When the government has committed a deprivation of liberty that violates
11 substantive due process, a court need not consider whether the deprivation also violates
12 procedural due process. *See Zinerman v. Burch*, 494 U.S. 113, 126 (1990) (procedural due
13 process challenges do not challenge the deprivation itself, only the process that accompanied it).
14 “[O]nly when a restriction on liberty survives substantive due process scrutiny does the further
15 question of whether the restriction is implemented in a procedurally fair manner become ripe for
16 consideration.” *Huynh v. Reno*, 56 F. Supp. 2d 1160, 1162 (W.D. Wash. 1999) (citing *Salerno* at
17 746).

18 85. Here, Respondents cannot justify Mr. [REDACTED] detention in keeping with the
19 purpose of immigration detention. Further, Mr. [REDACTED] detention is punitive and prolonged,
20 exceeding the bounds of constitutional detention. For these reasons, Mr. [REDACTED] detention
21 violates guarantees of substantive due process.
22
23

1 **III. Alternatively, Mr. [REDACTED] continued detention violates procedural due process,**
2 **warranting review by a neutral arbiter where ICE must present clear and**
3 **convincing evidence justifying his continued detention.**

4 86. While Mr. [REDACTED] maintains that his detention violates substantive due process and
5 warrants release on that ground, he can also establish a violation of his right to procedural due
6 process.

7 87. Mr. [REDACTED] has now been detained for over eighteen months without review by a
8 neutral arbiter. Despite Mr. [REDACTED] attempt to seek review of his detention before an IJ, the IJ
9 concluded – erroneously – that he did not have jurisdiction to conduct a bond hearing in Mr.
10 [REDACTED] case.

11 88. To guard against arbitrary detention and to guarantee the right to liberty, due
12 process requires “adequate procedural protections” that ensure the government’s asserted
13 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally
14 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690.

15 89. Although the Supreme Court has held that “brief” detention during removal
16 proceedings under § 1226(c) does not violate the Constitution, it did not disturb the longstanding
17 principle that otherwise-acceptable civil detention is unconstitutionally punitive once it becomes
18 prolonged. *Demore*, 538 U.S. at 513, 529.

19 90. In *Demore*, the Supreme Court denied a facial challenge to detention under
20 § 1226(c), which asserted that the statute was unconstitutional because it imposed mandatory
21 detention without a custody hearing. However, the Supreme Court emphasized that such
22 detention was typically “brief” in length and lasted “roughly a month and a half in the vast
23 majority of cases . . . and about five months in the minority of cases in which the [noncitizen]
chooses to appeal.” *Id.* at 530.

1 91. After the Court issued its decision, the government admitted that it had submitted
2 falsely abbreviated estimates of detention duration. *See* Letter from Ian H. Gershengorn, Acting
3 Solic. Gen., to Hon. [REDACTED] S. Harris, Clerk, Supreme Court (Aug. 26, 2016).

4 92. Accordingly, courts continue to consider constitutional challenges to prolonged
5 immigration detention pursuant to § 1226(c). *See Rodriguez v. Marin*, 909 F.3d 252, 256 (9th
6 Cir. 2018) (registering “grave doubts that any statute that allows for arbitrary prolonged
7 detention without any process is constitutional”); *German Santos v. Warden Pike Cty. Corr.*
8 *Facility*, 965 F.3d 203, 210 (3d Cir. 2020) (holding that “§ 1226(c) is unconstitutional when
9 applied to detain an alien unreasonably long without a bond hearing”).²

10 93. As a result, where the government detains a noncitizen for a prolonged period
11 while the noncitizen pursues a substantial defense to removal, due process requires an
12 individualized hearing before a neutral decisionmaker to determine whether detention remains
13 reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that
14 an “individualized determination as to [a noncitizen’s] risk of flight and dangerousness” may be
15 warranted “if the continued detention became unreasonable or unjustified”); *cf. Jackson*, 406
16 U.S. at 733 (detention beyond the “initial commitment” requires additional safeguards); *McNeil*
17 *v. Dir., Patuxent Inst.*, 407 U.S. 245, 249–50 (1972) (noting that “lesser safeguards may be
18 appropriate” for “short-term confinement”); *Hutto v. Finney*, 437 U.S. 678, 685–86 (1978)
19 (observing, in Eighth Amendment context, that “the length of confinement cannot be ignored in
20 deciding whether [a] confinement meets constitutional standards”).

21
22
23 ² *Jennings v. Rodriguez* explicitly refrained from addressing a constitutional challenge to
prolonged detention under § 1226(c), remanding the case for further development. 583 U.S. 281,
312 (2018).

1 94. The recognition that six months constitutes a substantial period of confinement
2 that qualifies as prolonged detention is deeply rooted in our legal tradition. With only a few
3 exceptions, “in the late 18th century in America crimes triable without a jury were for the most
4 part punishable by no more than a six-month prison term.” *Duncan v. Louisiana*, 391 U.S. 145,
5 161 & n.34 (1968).

6 95. Consistent with this tradition, the Supreme Court has found six months to be the
7 limit of confinement for a criminal offense that a federal court may impose without the
8 protection afforded by a jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality
9 opinion). The Court has also looked to six months as a benchmark in other contexts involving
10 civil detention. *See McNeil*, 407 U.S. at 249, 250–52 (recognizing six months as an outer limit
11 for confinement without individualized inquiry for civil commitment).

12 96. As the Ninth Circuit has explained in the pretrial detention context, “[i]t is
13 undisputed that at some point, [civil] detention can ‘become excessively prolonged, and therefore
14 punitive,’ resulting in a due process violation.” *Torres*, 995 F.3d at 708 (quoting *Salerno*, 481
15 U.S. at 747 n.4). That is especially true where the initial detention decision lacks significant (or
16 any) safeguards, as is the case here. *See O’Connor v. Donaldson*, 422 U.S. 563, 574–75 (1975)
17 (“Nor is it enough that Donaldson’s original confinement was founded upon a constitutionally
18 adequate basis, if in fact it was, because even if his involuntary confinement was initially
19 permissible, it could not constitutionally continue after that basis no longer existed.”); *McNeil* at
20 249–50 (explaining that as the length of civil detention increases, more substantial safeguards are
21 required).

22 97. These principles have “[o]verwhelmingly[] [led the] district courts that have
23 considered the constitutionality of prolonged mandatory detention—including . . . other judges in

1 this District[] [to] agree that prolonged mandatory detention pending removal proceedings,
2 without a bond hearing, will—at some point—violate the right to due process.” *Reyes v. Wolf*,
3 No. C20-0377-JLR-MAT, 2020 WL 6820903, at *3 (W.D. Wash. Aug. 7, 2020); *see also*
4 *Parada Calderon*, 2025 WL 1047578, at *4. Indeed, “[i]n the context of immigration detention,
5 it is well-settled that due process requires adequate procedural protections to ensure that the
6 government’s asserted justification for physical confinement outweighs the individual’s
7 constitutionally protected interest in avoiding physical restraint.” *Hernandez v. Sessions*, 872
8 F.3d 976, 990–91 (9th Cir. 2017).

9 98. Courts assessing whether a detained noncitizen is entitled to a hearing as a matter
10 of due process typically employ one of two tests: a multi-factor test or the test found in *Mathews*
11 *v. Eldridge*, 424 U.S. 319 (1976).

12 99. Courts in this district generally employ a multi-factor test. *See Djelassi v. ICE*
13 *Field Off. Dir.*, 434 F. Supp. 3d 917, 929 (W.D. Wash. 2020); *Banda v. McAleenan*, 385 F. Supp.
14 3d 1099, 1106 (W.D. Wash 2019).

15 100. Under the multi-factor test, courts look to “(1) the total length of detention to
16 date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the
17 removal proceedings caused by the detainee; (5) delays in the removal proceedings cause[d] by
18 the government; and (6) the likelihood that the removal proceedings will result in a final order of
19 removal.” *Banda*, 385 F. Supp. 3d at 1106 (citation omitted). The length of detention is the
20 “most important factor.” *Id.* at 1118.

21 101. The *Mathews v. Eldridge* test requires balancing (1) the private interest threatened
22 by governmental action; (2) the risk of erroneous deprivation of such interest and the probable
23

1 value of additional procedural safeguards; and (3) the government’s interest. 424 U.S. 319 at
2 335.

3 102. Mr. [REDACTED] merits a bond hearing under either test. He has been detained for over
4 eighteen months—well over six months. His appeal and motion to remand have been fully
5 briefed before the Board since March 4, 2025—nearly six months. There is no telling when his
6 appeals will be decided. As explained above, the conditions of detention he faces are abysmal,
7 given ICE’s failure to provide adequate medical care and the symptoms he endures daily.
8 Moreover, Mr. [REDACTED] is likely to successfully defend against a removal order, given that he is a
9 lawful permanent resident who is no longer removable.

10 103. Under the *Mathews* balancing test, the private interest weighs strongly in Mr.
11 [REDACTED] favor. *See* 424 U.S. at 335. Mr. [REDACTED] “has an overwhelming interest here—regardless of
12 the length of his immigration detention—because any length of detention implicates the same
13 fundamental rights.” *Perera v. Jennings*, No. 21-cv-04136-BLF, 2021 WL 2400981, at *4 (N.D.
14 Cal. June 11, 2021) (citation modified).

15 104. The risk of erroneous deprivation of Mr. [REDACTED] liberty is high, as he has been
16 detained for over eighteen months without a hearing before a neutral arbiter as to whether the
17 government can justify detention under his individualized circumstances. *See Zadvydas*, 533
18 U.S. at 690 (holding prolonged detention permissible only when detained person poses risk of
19 flight or danger to the community).

20 105. Conversely, “the probable value of additional procedural safeguards—an
21 individualized evaluation of the justification for his detention—is high, because Respondents
22 have provided virtually no procedural safeguards at all.” *Jimenez*, 2020 WL 510347, at *3
23 (granting habeas petition for person who had been detained for one year without a bond hearing).

1 106. Third, Respondents’ interest in continuing to detain Mr. [REDACTED] without providing
2 any neutral review of whether detention is justified is weak. *See Mathews*, 424 U.S. at 335. The
3 specific interest at stake here, where the detention statute does not extend any individualized
4 process, is not the government’s ability to continue to detain Mr. [REDACTED] but rather the
5 government’s ability to continue to detain him for an excessive amount of time without any
6 individualized review. *See Marroquin Ambriz*, 420 F. Supp. 3d 953, 964 (N.D. Cal. Oct. 28,
7 2019).

8 107. The cost of providing an individualized inquiry is minimal. *See Singh v. Barr*, No.
9 18-cv-2471-GPC-MSB, 2019 WL 4168901, at *12 (N.D. Cal. Aug. 30, 2019) (“The government
10 has not offered any indication that a second bond hearing would have outside effects on its
11 coffers.”); *see also Marroquin Ambriz*, 420 F. Supp. 3d at 964; *Lopez Reytez v. Bonnar*, 362 F.
12 Supp. 3d 762, 777 (N.D. Cal. 2019).

13 108. In any event, it is “always in the public interest to prevent the violation of a
14 party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting
15 *Sammartano v. First Judicial Dist. Court*, 303 F.3d 959, 974 (9th Cir. 2002)); *see Doe v. Kelly*,
16 878 F.3d 710, 718 (9th Cir. 2017) (holding that the government “suffers no harm from an
17 injunction that merely ends unconstitutional practices and/or ensures that constitutional standards
18 are implemented”).

19 109. Courts regularly afford noncitizens a bond hearing after facing similar periods of
20 detention as in Mr. [REDACTED] case. *See, e.g., Banda*, 385 F. Supp. 3d at 1118 (noting that 17 months
21 of detention was a “very long time” that “strongly favor[ed] granting a bond hearing); *Lopez v.*
22 *Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022) (“Petitioner has been in immigration
23 detention since September 10, 2021—approximately one year. District courts have found shorter

lengths of detention pursuant to § 1226(c) without a bond hearing to be unreasonable.”); *Gonzalez v. Bonnar*, No. 18-cv-05321-JSC, 2019 WL 330906, at *5 (N.D. Cal. Jan. 25, 2019) (detention of just over a year that would last several more months favored granting bond hearing); *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 2019 WL 5968089, at *11 (W.D. Wash. May 23, 2019), *R&R adopted*, No. 18-CV-01669-RAJ, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019) (detention of thirteen months favored granting bond hearing); *Liban M.J. v. Sec’y of DHS*, 367 F. Supp. 3d 959, 963-64 (D. Minn. 2019) (same, for twelve months); *Cabral v. Decker*, 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (same, for seven months);.

110. Further, because a custody hearing is warranted as a procedural safeguard against unreasonably prolonged detention in Mr. [REDACTED] case, Respondents must bear the burden of justifying continued confinement by clear and convincing evidence. *See Singh v. Holder*, 638 F.3d 1196, 1205 (9th Cir. 2011); *see also Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996) (holding 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’” (quoting *Santosky v. Kramer*, 455 U.S. 745, 756 (1982))); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (requiring clear and convincing evidence to justify civil commitment because “[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause”).

111. Mr. [REDACTED] eighteen-month detention without review by a neutral arbiter violates procedural due process. To cure this violation, the Court should alternatively order Respondents to provide Mr. [REDACTED] a bond hearing at which DHS bears the burden of justifying Mr. [REDACTED] detention by clear and convincing evidence.

CLAIMS FOR RELIEF

Count I

Violation of Immigration and Nationality Act, 8 U.S.C. § 1226(a)

112. Mr. [REDACTED] re-alleges and incorporates by reference the paragraphs above.

113. Respondents purport to detain Mr. [REDACTED] pursuant to 8 U.S.C. § 1226(c).

114. Even if Mr. [REDACTED] detention may have been initially justified under this statutory provision, it has ceased to be.

115. The conviction that served as the basis of DHS's removability charge—and the basis for subjecting Mr. [REDACTED] to mandatory detention under 8 U.S.C. § 1226(c)—has been vacated in accordance with law.

116. As such, Mr. [REDACTED] detention is no longer governed by 8 U.S.C. § 1226(c).

117. Mr. [REDACTED] also is not removable. As a lawful permanent resident, he is subject to the grounds of deportability in his removal proceedings. The sole ground of deportability that DHS invoked to seek to remove him no longer applies to Mr. [REDACTED]

118. Accordingly, no statute authorizes detention here, where Mr. [REDACTED] is a lawful permanent resident of the United States who is not subject to the grounds of inadmissibility.

119. The IJ blatantly erred in refusing to consider release on bond by finding that Mr. [REDACTED] remains subject to mandatory detention even though he is no longer removable.

120. As such, the Court should order Mr. [REDACTED] immediate release.

Count II

**Violation of Due Process under Fifth Amendment of U.S. Constitution:
Substantive Due Process Violation**

121. Mr. [REDACTED] re-alleges and incorporates by reference the paragraphs above.

122. 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.

1 123. Respondents' interest in civil immigration detention is to effectuate removal and
2 safeguard the community.

3 124. Because Mr. [REDACTED] is not removable, Respondents have no lawful interest in or
4 authority to detain him.

5 125. Due process also prohibits Respondents from punishing people through civil
6 detention. Civil detention becomes punitive when its nature or duration is unreasonable relative
7 to the purpose for which the individual is detained—in this case, effectuating removal and
8 safeguarding the community.

9 126. When a civil restriction is excessive in relation to a governmental interest, the
10 punitive detention violates the person's right to substantive due process.

11 127. Mr. [REDACTED] detention is excessive—both in nature and duration—in relation to
12 the government's interest in continuing to detain him. Mr. [REDACTED] is a lawful permanent resident
13 who is not removable from the United States. Moreover, he has been detained for nearly eighteen
14 months and endures a chronic medical condition without adequate treatment.

15 128. For these reasons, Mr. [REDACTED] unjustified and prolonged detention violates
16 substantive due process.

17 129. Accordingly, the Court should order Mr. [REDACTED] immediate release.

18 **Count III**
19 **Violation of Due Process under Fifth Amendment of U.S. Constitution:**
20 **Procedural Due Process Violation**

21 130. Mr. [REDACTED] re-alleges and incorporates by reference the paragraphs above.

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

1 132. Mr. [REDACTED] detention has become prolonged. He been detained for eighteen
2 months and faces additional months of continued detention without ever receiving a hearing
3 before a neutral decisionmaker as to whether his detention is justified.

4 133. For these reasons, Mr. [REDACTED] prolonged detention violates procedural due
5 process. Accordingly, the Due Process Clause requires Respondents to establish, at an
6 individualized hearing before a neutral decision maker, that Mr. [REDACTED] prolonged detention is
7 justified by clear and convincing evidence of flight risk or danger.

8 134. As such, the Court should order that Respondents must afford Mr. [REDACTED] a bond
9 hearing within seven days at which Respondents bear the burden of justifying Mr. [REDACTED]
10 detention by clear and convincing evidence.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Mr. [REDACTED] prays that this Court grant the following relief:

- 13 a. Assume jurisdiction over this matter;
- 14 b. Grant a writ of habeas corpus and order Respondents to immediately release
15 Mr. [REDACTED]
- 16 c. Alternatively, grant a writ of habeas corpus and order Respondents to schedule a
17 bond hearing before a neutral decisionmaker within seven days at which DHS
18 bears the burden of justifying detention by clear and convincing evidence;
- 19 d. Enjoin Respondents from transferring Mr. [REDACTED] without his consent outside of
20 this judicial district pending litigation of this matter;
- 21 e. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act,
22 28 U.S.C. § 2412, and on any other basis justified under law; and
- 23 f. Grant any other and further relief as the Court deems just and proper.

1 DATED this 19th day of September, 2025.

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** Application for admission pro hac vice
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