

1 **I. FACTUAL AND PROCEDURAL BACKGROUND**

2 Petitioner is an asylum-seeker who entered the United States on July 2, 2022. (ECF No. 1
3 at 1; ECF No. 7-1 at 2.) After presenting himself to immigration authorities for inspection,
4 Petitioner was released into the United States on parole. (ECF No. 1 at 19; ECF No. 7-1 at 4.) In
5 the time that followed, Petitioner established a life in Itasca, Illinois. (ECF No. 1 at 11.) He
6 obtained employment authorization and worked as an assembler, which allowed him to finance a
7 vehicle. (*Id.* at 2, 5.) He applied for asylum. (*Id.* at 11.) Petitioner maintains that he complied
8 with all immigration requirements, is not a danger to the community, and is not a flight risk. (*Id.*
9 at 11, 14.)

10 On January 3, 2026, while in Florida, Petitioner was arrested following an accusation of
11 shoplifting under Fla. Stat. § 812.014(3)(A), which applies to a maximum loss amount of \$100
12 and is the lowest-grade misdemeanor theft in Florida. (ECF No. 7-2 at 5; ECF No. 11 at 2.)
13 According to Petitioner, he had twice requested assistance with self-checkout at a store, and when
14 he attempted to exit, it was determined he was in possession of bananas he had not paid for.
15 (ECF No. 11 at 2.) Petitioner had no criminal history prior to this incident. (ECF No. 1 at 11.) A
16 state criminal judge reviewed the matter and granted Petitioner bond. (*Id.*) He was released on
17 bond on January 4, 2026, and then immediately taken into custody by U.S. Immigration and
18 Customs Enforcement (“ICE”). (*Id.*; ECF No. 7-1 at 2.) On January 7, 2026, the Fourteenth
19 Judicial Circuit, Bay County, Florida, entered a Deferred Prosecution Agreement, deferring
20 prosecution of Petitioner’s misdemeanor case for twelve months at which point the charges will
21 be dropped if Petitioner complies with certain conditions. (ECF No. 13-1 at 2.)

22 Petitioner was initially detained at the Alligator Alcatraz facility in Florida and then
23 transferred between detention facilities in Texas and Arizona before arriving to California City.
24 (ECF No. 1 at 11.) Petitioner suffers from a fractured fibula in his right leg and submits that he
25 has been denied adequate medical treatment, leaving him in constant pain and with worsening
26 physical and mental health. (*Id.* at 5–6, 13–14.) On April 30, 2026, nearly three months into his
27 detention, an immigration judge ordered Petitioner removed to his country of citizenship but
28 granted withholding of removal. (ECF No. 12-1.)

1 Petitioner has now been detained for approximately seven months. (ECF No. 1 at 2.) He
2 has not received a bond hearing. (*Id.* at 2.) Petitioner now challenges the lawfulness of his civil
3 detention and seeks immediate release. (*Id.* at 8–10.)

4 II. STANDARD OF LAW

5 The Constitution guarantees the availability of the writ of habeas corpus “to every
6 individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)
7 (citing U.S. Const., art. I, § 9, cl. 2). “[T]he essence of habeas corpus is an attack by a person in
8 custody upon the legality of that custody, and . . . the traditional function of the writ is to secure
9 release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). A writ of habeas
10 corpus may be granted to a petitioner who demonstrates that he is in custody in violation of the
11 Constitution or federal law. 28 U.S.C. § 2241(c)(3). Historically, “the writ of habeas corpus has
12 served as a means of reviewing the legality of Executive detention, and it is in that context that its
13 protections have been strongest.” *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001). Accordingly, a
14 district court’s habeas jurisdiction includes challenges to immigration detention. *See Zadvydas v.*
15 *Davis*, 533 U.S. 678, 687 (2001).

16 III. ANALYSIS

17 Petitioner claims his detention violates the Fifth Amendment Due Process Clause. (ECF
18 No. 1 at 8–9.) In opposition, Respondents first argue Petitioner is subject to mandatory detention
19 under 8 U.S.C. § 1226(c).³ (ECF No. 7 at 3–6.) In a subsequent filing, Respondents argue
20 Petitioner is now detained under §§ 1231(a)(1) and (a)(2) (“§ 1231”). (ECF No. 15 at 1–2.)
21 Respondents further assert the shift in Petitioner’s detention authority renders his habeas claims
22 moot. (*Id.* at 2.) The Court considers Petitioner’s constitutional claim before addressing
23 mootness.

24 A. Fifth Amendment Due Process Clause

25 The Fifth Amendment Due Process Clause prohibits government deprivation of an
26 individual’s life, liberty, or property without due process of law. U.S. Const. amend. V;

27 ³ Unless otherwise noted, citations to statute herein refer to Title 8 of the United States
28 Code.

1 *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). “[T]he Due Process Clause applies to
2 all ‘persons’ within the United States, including noncitizens, whether their presence here is
3 lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693 (2001). These due
4 process rights extend to immigration proceedings, including detention and deportation
5 proceedings. *Id.* at 693–94; *see Demore v. Kim*, 538 U.S. 510, 523 (2003).

6 Courts examine procedural due process claims in two steps: the first asks whether there
7 exists a protected liberty interest under the Due Process Clause, and the second examines the
8 procedures necessary to ensure any deprivation of that protected liberty interest accords with the
9 Constitution. *See Kentucky Dep’t of Corrections v. Thompson*, 490 U.S. 454, 460 (1989);
10 *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) (“Once it is determined that due process applies,
11 the question remains what process is due.”).

12 *i. Liberty Interest*

13 “Freedom from imprisonment—from government custody, detention, or other forms of
14 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
15 *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71 (1992)). “Even individuals
16 who face significant constraints on their liberty or over whose liberty the government wields
17 significant discretion retain a protected interest in their liberty.” *Pinchi v. Noem*, 792 F. Supp. 3d
18 1025, 1032 (N.D. Cal. 2025).

19 The Court finds Petitioner has a protected liberty interest in his continued freedom. The
20 Government’s decision to release Petitioner on parole when he came to the United States in 2022
21 was an “implicit promise” that he would not be re-detained during the pendency of his
22 immigration proceedings if he abided by the terms of his release. *Morrissey*, 408 U.S. at 482.
23 Petitioner maintains that he complied with the conditions of his release. Respondents do not
24 dispute this. Furthermore, Petitioner has lived in the United States for nearly four years during
25 which time he worked, built a life, and pursued his immigration case. Petitioner has a clear
26 liberty interest in his continued freedom protected by the Fifth Amendment. *See, e.g., Doe v.*
27 *Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) (noting the government’s actions allowing
28 petitioner to remain in the community for over five years strengthened his liberty interest).

1 Respondents' arguments on the applicability of §§ 1226(c) and 1231 do not alter the
2 Court's analysis. (ECF Nos. 7, 15.) The Court is unpersuaded by Respondents' argument that
3 Petitioner is subject to mandatory detention under § 1226(c). Section 1226(c) provides for
4 mandatory detention of a noncitizen who "is charged with, is arrested for, is convicted of, admits
5 having committed, or admits committing acts which constitute the essential elements of any
6 burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime
7 that results in death or serious bodily injury to another person[.]" 8 U.S.C. § 1226(c)(1)(E)(ii).
8 However, requiring mandatory detention for a mere arrest where prosecutors decline to press
9 charges, or for charges later resolved by acquittal or dismissal, raises serious due process
10 concerns. *Singh v. Chestnut*, No. 1:26-CV-00546-DJC-AC, 2026 WL 266021, at *2 (E.D. Cal.
11 Feb. 2, 2026) (noting the same). For that reason, courts have construed § 1226(c) to apply only
12 where a noncitizen is currently charged with or arrested for the crimes listed in the statute. *Id.*;
13 *see also Helbrum v. Williams Olson*, No. 4:25-cv-00349-SHL-SBJ, 2025 WL 2840273, at *6
14 (S.D. Iowa Sept. 30, 2025) (noting § 1226(c) "no longer requires mandatory detention when
15 charges are resolved via acquittal or dismissal and none of the other clauses apply"). That is the
16 case here where Petitioner's charges have been deferred pending compliance with certain
17 conditions. (ECF No. 13-1 at 2.) As local authorities have exercised their discretion not to
18 prosecute Petitioner's criminal case at this time, the Court is not persuaded that § 1226(c)
19 mandates Petitioner's detention.

20 As to Respondents' second argument on the applicability of § 1231, a new statutory basis
21 for detention does not unilaterally terminate Petitioner's liberty interest or vanish his due process
22 claims. *See Alvarenga Matute v. Wofford*, No. 1:25-CV-01206-KES-SKO, 2025 WL 2996577, at
23 *4 (E.D. Cal. Oct. 24, 2025) (noting a "change in the applicable statutory authority [for detention]
24 does not render moot petitioner's due process claim"); *Doe v. Becerra*, 697 F. Supp. 3d 937, 943
25 (N.D. Cal. 2023) ("[J]ust as the 'shall' in [§] 1226 gives way to as-applied due process
26 challenges, so too must the 'shall' in [§] 1231(a)" (citing *Demore*, 538 U.S. at 526; *Nielsen v.*
27 *Preap*, 586 U.S. 392, 419 (2019); *Hernandez Gomez v. Becerra*, No. 23-cv-01330-WHO, 2023
28 WL 2802230, at *3 (N.D. Cal. Apr. 4, 2023))). "Petitioner's rights are not limited to those laid

1 out by statute.” *Mohammed v. Warden of California City Det. Ctr.*, No. 1:26-CV-00118-DJC-
2 CSK, 2026 WL 192368, at *2 (E.D. Cal. Jan. 26, 2026) (citing *Nielsen*, 586 U.S. at 420); *see also*
3 *Doe*, 787 F. Supp. 3d at 1093 (“Governmental actions may create a liberty interest entitled to the
4 protections of the Due Process Clause.”) (citing *Bd. of Pardons v. Allen*, 482 U.S. 369, 371
5 (1987)). Accordingly, the Court finds Petitioner maintains a clear interest in his continued liberty
6 protected by the Due Process Clause.

7 B. Process Required

8 To determine what process is necessary to ensure any deprivation of Petitioner’s protected
9 liberty interest accords with the Constitution, the Court considers three factors: (1) “the private
10 interest that will be affected by the official action;” (2) “the risk of an erroneous deprivation of
11 such interest through the procedures used, and the probable value, if any, of additional or
12 substitute procedural safeguards;” and (3) “the Government’s interest, including the function
13 involved and the fiscal and administrative burdens that the additional or substitute procedural
14 requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). As set forth below,
15 these factors support Petitioner’s constitutional right to a custody or bond hearing.

16 First, as explained above, Petitioner has a substantial private interest in his own liberty
17 that is unquestionably affected by the Government’s actions detaining him. The amount of time
18 Petitioner spent at liberty underscores the gravity of its loss. *See Doe*, 787 F. Supp. 3d at 1094
19 (“The lengthy duration of his conditional release as well as the meaningful connections Petitioner
20 seems to have made with his community during that time create a powerful interest for Petitioner
21 in his continued liberty.”).

22 Second, the risk of erroneous deprivation of Petitioner’s liberty interest is considerable.
23 Because civil immigration detention is “nonpunitive in purpose and effect,” a “special
24 justification” must outweigh Petitioner’s protected liberty interest for his detention to comport
25 with due process. *Zadvydas*, 533 U.S. at 690. Where removal is not imminent under a final order
26 of removal, “[t]he government has no legitimate interest in detaining individuals who have been
27 determined not to be a danger to the community and whose appearance at future immigration
28 proceedings can be reasonably ensured by [] bond or alternative conditions.” *Hernandez*, 872

1 F.3d at 994. At the time Petitioner was detained and in nearly three months of detention,
2 Petitioner was not subject to a final order of removal. Although a removal order has since been
3 entered, Petitioner has been granted withholding of removal and Respondents put forth no
4 evidence or argument to suggest that his removal is imminent or reasonably foreseeable. As
5 Petitioner points out, Respondents generally allude to Petitioner's removal to a third country but
6 identify no specific country, present no evidence that a country has agreed to accept him, and
7 offer no timeline for removal. Respondents also do not claim Petitioner is a danger to the public
8 or a flight risk. Instead, prior to his misdemeanor case, Petitioner had no criminal history and was
9 working and establishing a life for himself. The risk that Petitioner is being detained without
10 proper justification is therefore exceedingly high. *A.E. v. Andrews*, No. 1:25-CV-00107-KES-
11 SKO, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025).

12 Third, the government's interest in detaining Petitioner without procedural protections is
13 low. The effort and cost required to provide Petitioner procedural safeguards are minimal. *See*
14 *Doe*, 787 F. Supp. 3d at 1094. Custody determination hearings are routine processes for
15 Respondents. The Court certainly recognizes the Government has an interest in immigration
16 enforcement and removing individuals for whom there is a final order of removal. However, the
17 Government can execute its interests in removing individuals while adhering to the most basic
18 procedural safeguards. Respondents set forth no legitimate interest in continuing to detain
19 Petitioner without such safeguards. Any burden associated with their provision does not
20 outweigh Petitioner's substantial liberty interest and the risk of erroneous deprivation.

21 Upon consideration of the *Mathews* factors, the Court finds Petitioner was entitled to a
22 hearing before a neutral decisionmaker to ensure his detention was justified. Respondents
23 provided no such hearing over Petitioner's nearly seven months of detention. Respondents have
24 therefore violated Petitioner's Fifth Amendment procedural due process rights.⁴

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27 ⁴ Petitioner also challenges his detention as violating the Immigration and Nationality Act.
28 (ECF No. 1 at 8.) As the Court concludes Petitioner's detention violates the Constitution, the
Court need not address Petitioner's statutory claim.

1 C. Mootness

2 Respondents argue their detention authority under § 1231, acquired nearly three months
3 into Petitioner’s detention, moots this habeas action. (ECF No. 15 at 2.) “Federal courts lack
4 jurisdiction to decide moot cases because their constitutional authority extends only to actual
5 cases or controversies.” *Iron Arrow Honor Soc’y v. Heckler*, 464 U.S. 67, 70 (1983). “[A] case
6 is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable
7 interest in the outcome.” *Powell v. McCormack*, 395 U.S. 486, 496 (1969). “The burden of
8 demonstrating mootness is a heavy one.” *Cantrell v. City of Long Beach*, 241 F.3d 674, 678 (9th
9 Cir. 2001). And a case “becomes moot only when it is impossible for a court to grant any
10 effectual relief whatever to the prevailing party.” *United States v. Yopez*, 108 F.4th 1093, 1099
11 (9th Cir. 2024) (quoting *Chafin v. Chafin*, 568 U.S. 165, 172 (2013)).

12 The basis for Petitioner’s claim is constitutional, not statutory. Therefore, it does not
13 evaporate with a shifting basis for statutory authority. *See Alvarenga Matute*, 2025 WL 2996577,
14 at *4; *Doe*, 697 F. Supp. 3d at 943. As the Court found above, Respondents have violated
15 Petitioner’s due process rights. This Court can return Petitioner to liberty and enter a remedy to
16 ensure any re-detention complies with the Constitution. Thus, a live controversy still exists for
17 which this Court may provide redress. Without explanation or case law explaining how later-
18 acquired statutory authority cures a constitutional violation or eliminates a controversy,
19 Respondents’ conclusory statements as to mootness are insufficient.

20 **IV. CONCLUSION**

21 For the foregoing reasons, IT IS HEREBY ORDERED:

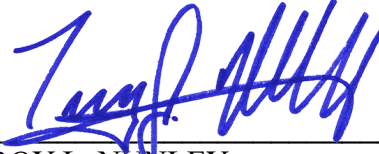
- 22 1. Petitioner’s Petition for Writ of Habeas Corpus (ECF No. 1) is GRANTED.
- 23 2. Petitioner’s Motion for TRO (ECF No. 2) is DENIED as moot.
- 24 3. Respondents are ENJOINED AND RESTRAINED from re-arresting or re-
25 detaining Petitioner absent compliance with constitutional protections, including seven-days’
26 notice and a pre-deprivation hearing before a neutral fact-finder where (a) Respondents show
27 material changed circumstances demonstrate a significant likelihood of Petitioner’s removal in
28 the reasonably foreseeable future, or (b) Respondents demonstrate by clear and convincing

1 evidence that the Government's interest in protecting the public and/or ensuring Petitioner
2 appears at future immigration proceedings outweighs Petitioner's constitutionally protected
3 interest in remaining free from detention. *See Zadvydas*, 533 U.S. at 690; *Hernandez*, 872 F.3d at
4 990. At any such hearing, Petitioner shall be allowed to have counsel present.

5 4. The Clerk of Court shall enter judgment in favor of Petitioner and close this case.

6 IT IS SO ORDERED.

7 Date: June 25, 2026



9 TROY L. NUNLEY
10 CHIEF UNITED STATES DISTRICT JUDGE
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