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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Ismael AVALOS GONZALEZ Petitioner, v. John MATTOS, Warden, Nevada Southern Center; Brian HENKE, Las Vegas/Salt Lake City Regional Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement (ICE/ERO); Kristi NOEM, Secretary, United States Department of Homeland Security, Pamela BONDI Attorney General of the United States, Daren K. MARGOLIN, Director Executive Office for Immigration Review Respondents.	PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE Case No. 2:26-cv- Agency Case Number: A[redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE

I. INTRODUCTION

1. Utah Counsel are licensed to practice in and reside in Utah. Utah counsel will be seeking pro hac vice admission in this matter; both counsel have been previously admitted to practice pro hac vice before the Federal District Court of Nevada.

2. Petitioner Ismael Avalos Gonzalez has been a resident of Utah for more than 20 years, and he is presently detained by U.S. Immigration and Customs Enforcement (ICE) at the Nevada Southern Detention Center after being detained by officials from U.S. Customs and Border Patrol (CBP) in West Valley City, Utah, on January 29, 2026. Exhibit A.

3. CBP agents arrested Petitioner inside his locked business, Viper Auto Care, which CPB agents entered without a warrant by breaking into the locked front door incident to executing an administrative arrest warrant for Wilmer Alberto Jimenez Menjivar, an employee of Viper Auto Care. *Id.*

4. Petitioner, by and through the above-named counsel of record, submits this Petition for Writ of Habeas Corpus against the above-named Respondents because he is being unlawfully detained – held without bond – in contravention of the laws, regulations, and Constitution of the United States.

5. Petitioner's continued detention without charge or bond is an unlawful violation of due process, a deliberately incorrect interpretation of the applicable statutes, a violation of the applicable regulations, and is ultra vires to DHS's statutory authority.

6. Petitioner is a member of the "Bond Eligible Class" as it has been defined by the District Court of Central California. On December 18, 2025, the California Central District Court

certified a national class of *Maldonado-Bautista v. Santacruz Jr. et. Al.* 5:25-cv-01873-SSS-BFM BFM (Amended Order Consolidating the Court's Orders on Motion for Partial Summary Judgment, Class Certification, and Application for Reconsideration or Clarification December 18, 2025).

7. That class is defined as: "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Id.*

8. Judges in this District have routinely held that members of this class or similarly defined groups are not lawfully subject to mandatory detention without bond, nor are they "seeking admission". *Maldonado-Vazquez v. Feeley*, 2:25-cv-01542-RFB-EJY, 6-8, (D. Nev. Sep 17, 2025); *Sanchez-Roman v. Noem,* 2:25-cv-01684-RFB-EJY (D. Nev. Sept. 23, 2025).

9. Judges in this District have repeatedly held that members of this class are detained pursuant to 8 U.S.C. §1226(a) and not 8 U.S.C. §1225(b)(2)(A) as Respondents continue to assert. *Id.*

10. Nevertheless, because Respondents continue to assert that their legal interpretation governs all the nation's Immigration Judges, Petitioner is forced to seek a Writ of Habeas Corpus from this Court, prior to seeking a bond hearing with an Immigration Judge.

11. Petitioner has never been convicted of a crime that would disqualify him from receiving a bond hearing in immigration court.

II. JURISDICTION

12. Petitioner is in the physical custody of Respondents, detained at the Nevada Southern Detention Center in Pahrump, Nevada.

13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United Sates Constitution (the Suspension Clause), and 5 U.S.C. § 702.

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*, 5 U.S.C. § 706, and the All Writs Act, 28 U.S.C. § 1651.

III. VENUE

15. Pursuant to *Burden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court of Nevada, the judicial district in which Petitioner is currently detained. Thus, a resident of Utah and attorneys who reside in Utah are forced to file this action in the District of Nevada solely because ICE moved the Petitioner from Utah to Nevada.

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 Nevada.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

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

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative relief in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

V. PARTIES

19. Petitioner is a citizen of Mexico. He entered the United States without inspection in 2000. He has been a resident of Utah for more than 20 years. Exhibit B.

20. Petitioner was convicted in California in 2003 of the misdemeanor offense of Taking a Vehicle without the Owner's Consent, commonly known as joyriding, for which he was sentenced to three years of probation. Apart from that conviction, he does not have any other significant criminal convictions. Exhibit A.

21. Respondent John Mattos is employed by CoreCivic as Warden of the Nevada Southern Detention Center, where Petitioners are detained. Mr. Mattos has immediate physical custody of Petitioners. He is sued in his official capacity.

22. Respondent Brian Henke is the Director of the Las Vegas/Salt Lake City Field Office of ICE's Enforcement and Removal Operations Division. As such, Mr. Henke is Petitioners' immediate custodian and is responsible for Petitioners detention and removal. He is named in his official capacity.

23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA) and oversees ICE, which is responsible for Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioners and is sued in her official capacity.

24. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department Justice, of which the Executive Office for Immigration Review (EOIR) (the immigration courts) is a component agency. She is sued in her official capacity.

25. Respondent Daren K. Margolin is the Director of the Executive Office for Immigration Review (EOIR), which is the federal agency with the Department of Justice responsible for implementing and enforcing the INA in removal proceedings, including for custody redetermination in bond hearings and appellate review of Immigration Judge decisions. He is sued in his official capacity.

VI. SUMMARY OF PRIOR PROCEEDINGS

26. Petitioner entered the United States without inspection in 2000. Exhibit A: I-213.

27. Petitioner was not stopped, encountered, or otherwise detained by Respondents or their agents until January 29, 2026. Exhibit A.

28. Petitioner did not apply for admission in 2000, nor has he in any other way at any time sought lawful admission into the United States.

29. On the morning of January 29, 2026, Petitioner was inside his business, Viper Auto Care located in West Valley City, Utah, preparing for the workday.

30. The business was not yet open to the public. CBP officers forcibly broke open the locked front door to the business. Exhibits A and B.

31. According to the Government's I-213 document, CBP officers broke into the Petitioner's business while in pursuit of Mr. Wilmer Alberto Jimenez Menjivar, an employee of Viper Auto Care for whom the CBP officers possessed an administrative arrest warrant. Exhibit A.

32. CBP officers had attempted to conduct a traffic stop on Mr. Jimenez Menjivar as he arrived at Viper Auto Care, but Mr. Jimenez Menjivar ran into the business and locked the door behind him. Exhibit A.

33. After breaking into Viper Auto Care, in violation of the fourth amendment to the U.S. Constitution, CBP officers discovered Petitioner and took him into custody on suspicion of being a removable alien under INA section 212(a)(6)(A)(i). Exhibit A.

34. Petitioner was detained without bond and subsequently transferred to the Nevada Southern Detention Center in Pahrump, Nevada.

35. On September 5, 2025, the Board of Immigration Appeals (BIA), the appellate branch of Respondent Executive Office for Immigration Review (EOIR) issued a precedent decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which courts across the U.S. have held is an invalid interpretation of the statute. *See, e.g., Maldonado Bautista et. al. v. Ernesto Santacruz Jr. et. al.*, 5:25-cv-01873-SSS-BFM (Amended Order Consolidating the Court's Orders on Motion for Partial Summary Judgment, Class Certification, and Application for Reconsideration or Clarification December 18, 2025).

36. In *Yajure,* the BIA ignored the U.S. constitution, the statutory language, the record of Congressional intent, the regulations implementing IRRIRA, and more than two decades of BIA precedent, including a precedent decision issued June 30, 2025, (*Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025)), to hold that EOIR employee Immigration Judges do not have statutory authority to consider bond requests or to grant bonds to any foreign national who entered without inspection, regardless of length of residence or ties to the United States.

37. Since the *Yajure Hurtado* decision, immigration judges across the U.S. are instructing immigration counsel not to "waste the IJ's time" requesting a bond hearing where the foreign national entered without inspection, regardless of the length of the foreign national's presence in the United States, or the foreign national's ties to the United States.

38. As applied to the Petitioner, the agency's ruling in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) is an unconstitutional violation of his right to due process of law.

39. The agency's conclusion in *Yajure,* holding that all foreign nationals present in the United States without being admitted are subject to mandatory detention without bond, contradicts the statutory language, the expressed Congressional intent, the agency's own prior precedents, as well as U.S. Supreme Court and Federal Court precedent.

VII. LEGAL FRAMEWORK

A. CIVIL DETENTION PROVISIONS OF THE INA

40. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

41. This fundamental principle of our free society is enshrined in the Fifth Amendment's Due Process Clause, which specifically forbids the Government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend. V.

42. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law").

43. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678.

44. The Supreme Court "has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); *see also Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

45. In 1996, acting within the recognized constraints of constitutional due process, Congress rebalanced and codified three explicit detention regimes for noncitizens. Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. 1., No. 104-208, Div. C. §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585.

46. First, as found in 8 U.S.C. § 1225, the statute provides for detention without bond of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other arriving aliens, as defined at 8 C.F.R. §§ 1.2 and 1001.1(q).

47. Second, 8 U.S.C. § 1226 authorizes the issuance of administrative warrants for the detention of noncitizens for standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a.

48. Finally, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)-(b).

49. This case concerns the detention provisions §§ 1225 and 1226.

50. The detention provisions at § 1225 and § 1226 were enacted in 1996 as part of IIRIRA.

51. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 State. 3 (2025).

52. Following enactment of IIRIRA, EOIR drafted new regulations establishing that, in general, people who entered the country without inspection were not subject to the border detention regime of § 1225 and that they were instead subject to the detention provisions of § 1226. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 63 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

53. Individuals arrested and detained pursuant to the procedures of § 1226 are presumed to be entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d), unless they have been arrested, charged with, or convicted of certain crimes, in which case they are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

54. The regulations published at 63 Fed. Reg. 10312, 10323 (Mar. 6, 1997) were consistent with the constitutionally reviewed procedures of decades of prior practice, in which noncitizens present in the U.S.—noncitizens who were not "arriving aliens" as defined at 8 C.F.R. § 1001.1(q)—were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* Report of the Committee on the Judiciary on H.R. 2202, Report No. 104-469, Part 1 at 229 (March 4, 1996)

(noting that § 1226(a) simply "restates" the detention authority previously found at § 1251(a)).

55. Those regulations are consistent with the record of Congressional intent, as documented in the Report of the Committee on the Judiciary on H.R. 2202, Report No. 104-469, Part I (March 4, 1996) and in the Report of the Conference Committee, Report No. 104-828 (September 24, 1996).

56. The Congressional record shows that Congress was very aware during the drafting of IIRIRA of the constitutional parameters within which they were working. That includes the robust precedent establishing that persons in the U.S., regardless of their manner of entry, are constitutionally entitled to due process of law, including when they are subject to civil detention. *See, e.g., Yick Wo v. Hopkins*, 118 U.S. 356, (1886); *Yamataya v. Fisher*, 189 U.S. 86 (1903) (Japanese Immigrant Case) ; *Plyler v. Doe*, 102 S. Ct. 2382 (1982).

57. As explicitly set out in the implementing regulations, individuals (like the Petitioner) arrested and detained in the interior of the United States after months, years, or decades of physical presence in the U.S., are presumed to be entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§1003.19(a), 1236.1(d), unless they have been arrested, charged with, or convicted of certain crimes, in which case they are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

58. The regulations published at 63 Fed. Reg. 10312, 10323 (Mar. 6, 1997) are consistent with the constitutionally reviewed procedures of decades of prior practice, in which noncitizens present in the U.S.—noncitizens who were not "arriving aliens" as defined at 8 C.F.R. § 1001.1(q)—were entitled to a custody hearing before an Immigration Judge or

other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see* H.R. Rep. No. 104-469, Part 1 at 229 (March 4, 1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1251(a)).

59. In the decades that followed implementation of IIRIRA, the common understanding of the law was that 8 U.S.C. § 1226 applied to nearly everyone who entered the United States without inspection.

60. As a result, individuals like the Petitioner, detained after years of physical presence in the United States, were routinely placed in standard removal proceedings and received bond hearings, unless their criminal history rendered them ineligible.

61. That practice was consistent with many more decades of prior practice, in which noncitizens who were not "arriving aliens" as defined at 8 C.F.R. § 1001.1(q) were entitled to a custody hearing before an Immigration Judge or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1251(a)).

62. Following those regulations, in the nearly three decades since IIRIRA, persons such as the three Petitioners in this case—noncitizens present in the United States who have never applied for admission or presented themselves for inspection (the class of persons who 'entered without inspection' or EWI's as they are routinely labeled)—were routinely arrested based on the warrant and other procedures set out in § 1226.

63. Despite the regulations and the nearly three decades of practical implementation, DHS, on July 8, 2025, published a notice titled "Interim Guidance Regarding Detention Authority for Applicants for Admission." The notice was disseminated internally, to all ICE employees.

64. As noted in *Vasquez v. Feeley, supra,* ftnt 2: "The memo was leaked to the American Immigration Lawyers Association ("AILA"). *See ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025), *https://www.aila.org/library/ice-memo-interim-guidance-regardingdetention-authority-for-applications-for-admission [https://perma.cc/5GKM-JYGX*].

65. Judge Boulware describes the contents of this notice as follows:

> The Notice indicated that DHS, in coordination with the DOJ, 'revisited its legal Position' on the INA and determined that § 1225(b)(2), rather than § 1226, is the applicable immigration authority for any alien present in the U.S. 'who has not been admitted. . . whether or not at a designated port of arrival.' Accordingly, 'it is the position of DHS that such aliens are subject to [mandatory] detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.' The Notice further provides '[t]hese aliens are also ineligible for a custody redetermination hearing (bond hearing) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that 'arriving aliens' have historically been treated.'

Vasquez v. Feeley, supra, pp 8-9.

66. As Judge Boulware also noted in *Vasquez*, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a precedent decision, *Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025). In that precedent decision, the Board of Immigration Appeals formally agreed with the statutory interpretation as laid out in the July 8, 2025, ICE memo.

67. In other words, as of September 5, 2025, despite the conflicting regulatory language, express Congressional intent and long-standing constitutional due process requirements, it is now the explicit legal position of the U.S. Department of Justice, Executive Office for Immigration Review (EOIR) that all non-citizens present within the United States

who have not been lawfully admitted are subject to mandatory detention without bond, regardless of the length of their physical presence or their ties to the United States.

68. The Petitioners is presently detained without bond, based on this new government policy and legal interpretation of 8 U.S.C. § 1225(b)(2)(A) mandating that all non-citizens present within the United States without lawful admission be detained without bond.

69. As Judge Boulware noted in *Vasquez* at 10-11, "since the July 8, 2025 DHS Guidance Memo, Petitioner asserts most IJs in Las Vegas have rejected DHS' new interpretation of 1225(b)(2), and instead found jurisdiction under 1226(a)" *Id.* at 10-11.

70. Petitioner has not sought a bond hearing from the Immigration Judge handling his case, because it has become clear that the Immigration Judges, following the BIA decision in *Yajure Hurtado*, are no longer authorized by their superiors within EOIR to grant bonds to individuals in Petitioners' factual circumstances.

71. It is therefore futile to pay an attorney and seek a bond hearing prior to obtaining a writ of habeas corpus ordering that a bond hearing take place.

B. CONSTITUTIONAL DUE PROCESS

72. In determining whether due process has been violated, the Court should weigh: (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

73. As to the first *Mathews* factor, the private interest affected by the government action, "Petitioner's liberty interest in remaining free from governmental restraint is of the highest constitutional import." *Zavala*, 310 F.Supp.2d at 1076; *see also Ashley*, 288 F.Supp.2d at 670-71 (same) (quoting *St. John v. McElroy*, 917 F.Supp. 243, 250 (S.D.N.Y. 1996)).

74. The Petitioner is a long-term resident of the United States with U.S. citizen children.

75. Petitioner does not have a criminal record that would make him ineligible for an immigration bond.

76. As to the second *Mathews* factor, this Court must look to the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards. As explained above, the current procedures cause an erroneous deprivation of the interest of this Petitioner in remaining at liberty, free from detention.

77. As to the third *Mathews* factor, the government's interest in maintaining the "current" procedure is minimal. The sole interest of the government is in spending all the resources Congress has granted it to detain all immigrants, regardless of lack of danger, regardless of ties to the U.S., regardless of length of stay, and regardless of the requirements of constitutional due process.

78. In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show prejudice. "To show prejudice, [a Petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided." *Tamayo-Tamayo v. Holder*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted).

79. Until September 5, 2025, Petitioner would have been eligible for a bond hearing before an Immigration Judge.

80. Respondents' novel legal theory, reinterpreting statutory language after nearly thirty years in violation of the implementing regulations, the express intent of the Congressional Record and the fundamental principles of constitutional due process, is a completely new and unnecessary termination of a prior procedure that protected the constitutional due process rights of these Petitioners and other similarly situated non-citizens.

81. If the Respondents were to permit the Immigration Judge to exercise the same authority they have exercised on these facts for over sixty years, the Petitioner would have been granted bond, posted it, and been home with his loved ones by now.

82. The continued detention of Petitioner based on the BIA's unconstitutional statutory reinterpretation as announced in *Yajure-Hurtado* constitutes actual prejudice.

83. Petitioner has no other forum in which to seek judicial review of the constitutional and legal issues raised by his continued detention on the basis of the Respondents' actions, memos, and decisions.

84. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas* at 690.

85. Accordingly, Petitioner seeks a Writ of Habeas Corpus requiring that he be immediately provided with a bond hearing before an Immigration Judge, and that thereafter he be allowed to pay the bond granted by the Immigration Judge and to be released.

VIII. CLAIMS FOR RELIEF

COUNT I

Violation of the INA and Governing Regulations

86. Petitioner incorporates by reference the facts and law set forth in the preceding paragraphs.

87. Petitioner entered the United States without inspection. He has been present within the United States for more than 25 years.

88. Petitioner was issued a Notice to Appear in removal proceedings pursuant to 8 U.S.C. § 1229a.

89. Respondents' novel interpretation of 8 U.S.C. § 1225(b)(2)(A) as authority for detaining Petitioners without bond violates the regulations and is an unconstitutional interpretation of the statutory language, without basis in prior precedent or the record of Congressional intent.

COUNT II

Violation of Fifth Amendment Right to Due Process of Law

90. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

91. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d. 653 (2001).

92. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

93. The Ninth Circuit has also held that "[r]emaining confined in jail when one should otherwise be free is an Article III injury plain and simple[.]" *Gonzalez v United States Immigr. & Customs Enf't.* 975 F.3d 788, 804 (9th Cir. 2020) (quoting *Mendia v. Garcia*, 768 F.3d 1009, 1012 (9th Cir. 2014)).

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

95. The Government's continued detention of Petitioner, without bond, is a clear violation of his constitutional right to due process under the law.

96. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty without rationale or any justification.

97. Respondents' continued detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community).

98. There is no credible argument that the Petitioner cannot be safely released back to his community and loved ones.

99. For these reasons, continued detention of this Petitioner violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a Writ of Habeas Corpus requiring that Respondents immediately provide Petitioner with a constitutionally adequate bond hearing, and that Petitioner be allowed to post the bond and be released;

c. Declare that Petitioner's continued detention without bond or any individualized determination of danger or flight risk violates the Due Process Clause of the Fifth Amendment;

d. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

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

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

RESPECTFULLY SUBMITTED this 19th day of February 2026.

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EXHIBIT LIST

Exhibit A: Form I-213

Exhibit B: Affidavit of Petitioner's Partner, Adelina Enciso, with translation

Exhibit C: Criminal History Chart and Court Dockets

Exhibit D: Birth Certificates of Petitioner's U.S. Citizen Children