

1 RICHARD S. STERGER, ESQ.
2 Sterger Law Group, P.C.
3 300 W. Grand Ave., Suite 200
4 Escondido, California 92025
5 Telephone: (760) 260-8158
6 rick@stergerlawgroup.com

7 Attorney for Petitioner
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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 JAIME PALACIOUS RIVERA,
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14 Petitioner,
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16 v.
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18 JEREMY CASEY; ET AL.,
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20 Respondents.
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Case No.: 26cv1316-JES-MSB

**PETITIONER'S TRAVERSE IN
SUPPORT OF PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

This case presents a straightforward constitutional question: whether the government may re-detain a noncitizen who was previously released on immigration bond without revoking that bond, without identifying any change in circumstances, and without providing any individualized determination supporting renewed detention.

The answer is no.

Petitioner was detained and released on bond by an Immigration Judge in 2012 following an individualized custody determination. That bond determination reflected the government's conclusion that Petitioner was neither a flight risk nor a danger to the community. Petitioner remained free under that bond for more than thirteen years.

Despite the continued existence of that bond determination, ICE re-arrested Petitioner on November 25, 2025, while he was traveling to work and returned him to detention. Respondents have not revoked the bond, have not alleged that Petitioner violated its conditions, and have not identified any changed circumstances that would justify renewed detention.

Instead, Respondents attempt to avoid the constitutional defect by suggesting that Petitioner should receive a new bond hearing. Petitioner does not seek a bond hearing as he already received one.

The question before the Court is whether Respondents have lawful authority to detain Petitioner despite the outstanding bond order. Because they do not, the writ should issue and Petitioner should be released.

LEGAL STANDARD

Under 28 U.S.C. § 2241, a writ of habeas corpus may be granted to any petitioner who demonstrates that he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). The writ is available to every individual detained within the United States. See *Rasul v. Bush*, 542 U.S. 466, 473 (2004).

The traditional function of habeas corpus is to test the legality of detention and to secure release from unlawful custody. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Where the government cannot demonstrate lawful authority for continued detention, the writ must issue

1 and the appropriate remedy is release.

2 ARGUMENT

3 I.PETITIONER'S RE-DETENTION VIOLATES THE DUE PROCESS CLAUSE

4 The Fifth Amendment provides that no person shall be deprived of liberty without due
5 process of law. Freedom from physical restraint lies at the core of the liberty protected by the
6 Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). These protections apply to
7 noncitizens present within the United States. *Id.* at 693.

8 Once the government releases an individual from immigration detention following an
9 individualized custody determination, that individual possesses a protected liberty interest in
10 remaining free from detention absent lawful process.

11 Petitioner was previously detained and released on bond after an Immigration Judge
12 determined that he was neither a flight risk nor a danger to the community. That bond
13 determination governed Petitioner's custody status and allowed him to live and work in the
14 community for more than thirteen years.

15 Despite the continued existence of that bond determination, ICE re-arrested Petitioner
16 and returned him to detention without revoking the bond and without identifying any changed
17 circumstances that would justify renewed detention.

18 Under these circumstances, Petitioner's detention is not supported by a lawful custody
19 determination and therefore violates the Due Process Clause.

20 II.RE-DETENTION WITHOUT REVOCATION OR CHANGED CIRCUMSTANCES 21 IS ARBITRARY

22 Immigration detention is civil in nature and is permissible only to ensure appearance at
23 removal proceedings or to protect the community from danger. *Zadvydas*, 533 U.S. at 690. A
24 prior release determination necessarily reflects the government's conclusion that detention is
25 not required to achieve those purposes. For that reason, courts have consistently held that the
26 government may not re-arrest a previously released noncitizen absent a material change in
27 circumstances. See *Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021); *Saravia v.*
28 *Sessions*, 280 F. Supp. 3d 1168,

1 1197 (N.D. Cal. 2017).

2 Respondents identify no such change here. They do not contend that Petitioner violated
3 the conditions of his bond. They do not assert that the bond was revoked. And they do not
4 identify any new facts that would support renewed detention. Instead, Petitioner was arrested
5 while living and working in the community pursuant to the same bond order that had governed
6 his custody status for more than thirteen years. Detention under these circumstances is arbitrary
7 and incompatible with due process.

8 **III. PETITIONER'S EXTENDED COMPLIANCE CONFIRMS THAT DETENTION IS**
9 **UNJUSTIFIED**

10 Petitioner's history further demonstrates that renewed detention is unwarranted.
11 For more than thirteen years after being released on bond, Petitioner lived in the community,
12 maintained employment, and pursued immigration relief through the lawful process established
13 by the immigration courts.

14 During that time, Petitioner appeared as required and complied with the legal process
15 governing his case. His proceedings were eventually placed on the immigration court's inactive
16 docket. Petitioner's lengthy period of compliance confirms the correctness of the original
17 custody determination and underscores the absence of any legitimate justification for renewed
18 detention.

19 Respondents have identified no change in circumstances that would justify revisiting
20 the prior custody determination. The undisputed record therefore confirms that Petitioner's
21 detention is unsupported by any lawful basis.

22 **IV. A NEW BOND HEARING DOES NOT REMEDY THE CONSTITUTIONAL**
23 **VIOLATION**

24 Respondents suggest that the appropriate remedy is to provide Petitioner with a new
25 bond hearing. That argument misunderstands the nature of the violation.

26 Petitioner already received a bond hearing. An Immigration Judge conducted an
27 individualized custody determination and ordered Petitioner released on bond. That
28 determination has never been revoked.

1 The issue before the Court is therefore not whether Petitioner should receive a bond
2 hearing. The issue is whether Respondents have lawful authority to detain him despite the
3 existing bond order. They do not.

4 Allowing the government to cure unlawful detention by offering a new bond hearing
5 would permit the government to disregard existing custody determinations and attempt to
6 justify detention only after the fact. If a new bond hearing were sufficient, the government
7 could nullify any bond order simply by re-arresting the individual and forcing the courts to
8 restart the custody process over again. The Constitution does not permit detention first and
9 justification later.

10 **V. BECAUSE RESPONDENTS LACK AUTHORITY TO DETAIN PETITIONER,**
11 **RELEASE IS THE PROPER REMEDY**

12 The purpose of habeas corpus is to determine whether a person's detention is lawful.
13 When the government cannot demonstrate lawful authority for custody, the writ must issue.
14 Preiser v. Rodriguez, 411 U.S. 475, 484 (1973).

15 Here, Respondents have not shown that Petitioner violated his bond conditions, that the
16 bond was revoked, or that any change in circumstances occurred that would justify renewed
17 detention. Because Respondents lack lawful authority to detain Petitioner despite the existing
18 bond determination, Petitioner's continued custody violates the Constitution.

19 The proper remedy is release.

20 **CONCLUSION**

21 Respondents have failed to demonstrate any lawful basis for detaining Petitioner despite
22 the outstanding bond order that authorized his release. Petitioner's detention therefore exceeds
23 Respondents' statutory authority and violates the Fifth Amendment. Because the government
24 lacks lawful authority to detain Petitioner, the writ must issue.

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1 For these reasons, the Court should grant the Petition for Writ of Habeas Corpus and
2 order Petitioner released from ICE custody.

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4 Respectfully submitted this 5th day of March 2026,

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6 /s/ Richard S. Sterger, Esq.

7 Sterger Law Group, P.C.
8 300 W. Grand Ave., Suite 200
9 Escondido, California 92025
10 CA Bar #: 335832
11 *Attorney for Petitioner*

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STERGER LAW GROUP
— TRIAL ATTORNEYS —