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**Request for student practice filed concurrently*

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Jonathan Alexis Bonilla,

Petitioner,

v.

Christopher J. LAROSE, Warden, Otay
Mesa Detention Center; Daniel A
BRIGHTMAN, Field Office Director, San
Diego Field Office, United States
Immigration and Customs Enforcement;
Todd M. LYONS, Acting Director, United
States Immigration and Customs
Enforcement; Markwayne MULLIN,
Secretary of Homeland Security; Todd
Wallace BLANCHE, Acting Attorney
General *in their official capacities,*

Respondents.

Case No.: '26CV2247 TWR BLM

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

INTRODUCTION

1. Petitioner Jonathan Alexis Bonilla is a devoted father and son who was previously released from immigration custody but was later abruptly re-detained and jailed for no legitimate reason. When the Department of Homeland Security (DHS) previously released Mr. Bonilla from its custody, Respondents necessarily determined that he was neither a flight risk nor a danger to the community. Nevertheless, in August 2025, U.S. Immigration and Customs Enforcement (ICE) officials re-detained Mr. Bonilla while he was appearing as ordered for a check-in appointment with ICE in Los Angeles, California.

2. Mr. Bonilla has never had criminal contact, including since his previous release from DHS custody. Nor does he pose a flight risk. Mr. Bonilla has appeared diligently for all of his immigration court hearings and meticulously complied with ICE's supervision requirements. Indeed, at the time he was arrested in August 2025, Mr. Bonilla was complying with the second request that month to appear at an ICE check-in. And yet, ICE continues to unlawfully detain Mr. Bonilla, separating him from his eight-year-old son and his mother who depend on him.

3. Prior to his abrupt re-detention, ICE did not provide Mr. Bonilla with a pre-deprivation hearing to determine whether a material change in circumstances warranted his re-detention based on danger to the community or risk of flight.

4. Mr. Bonilla's detention violates his right to procedural and substantive Due Process under the Fifth Amendment, as it is not justified by a legitimate government purpose. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), Mr. Bonilla's fundamental liberty interest far outweighs the government's interest in detaining him, and the risk of error is great where there has been no pre-deprivation process to determine whether Mr. Bonilla's loss of liberty is justified. Mr. Bonilla's detention likewise contravenes the Administrative Procedure Act (APA). This is because it is both contrary to constitutional right and because it is arbitrary and capricious where Respondents failed to contemporaneously provide a justification for his re-detention.

5. Mr. Bonilla respectfully requests that this Court issue the Writ of Habeas Corpus commanding Respondents to immediately release him from custody and enjoining Respondents from re-detaining him without a pre-deprivation hearing before a neutral decision-maker at which Respondents must prove material changes in circumstances justify re-detention. Mr. Bonilla seeks that relief under the federal habeas statute, 28 U.S.C. § 2241, which is the proper vehicle for challenging civil immigration detention. *See Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024) (noting that a noncitizen’s challenge to his present confinement falls within the “core of habeas”).

CUSTODY

6. Mr. Bonilla is in the physical custody of Respondents while imprisoned at Otay Mesa Detention Center, an immigration detention facility in San Diego, California. Mr. Bonilla is under the direct control of Respondents and their agents.

JURISDICTION AND VENUE

7. This Court has jurisdiction to consider this habeas petition under 28 U.S.C. § 1331; 28 U.S.C. § 2241; the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I, 2.

8. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because at least one Respondent is in this District, Mr. Bonilla is detained in this District, Petitioner's immediate physical custodian is located in this District, and a substantial part of the events giving rise to the claims in this action have taken place in this District.

PARTIES

9. Petitioner Jonathan Alexis Bonilla is currently detained by Respondents at the Otay Mesa Detention Center, an immigration detention facility in San Diego, California. Mr. Bonilla has been in ICE custody since on or about August 25, 2025.

10. Respondent Christopher J. LaRose is the Warden of the Otay Mesa Detention Center where Mr. Bonilla is currently detained. The Warden is a legal custodian of Mr. Bonilla and is named in his official capacity.

11. On information and belief, Respondent Daniel A Brightman is the current Field Office Director responsible for the San Diego Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Mr. Bonilla and is named in his official capacity.

12. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Mr. Bonilla and is named in his official capacity.

13. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security. He is a legal custodian of Mr. Bonilla and is named in his official capacity.

14. Respondent Todd Wallace Blanche is the Acting Attorney General of the United States Department of Justice. He is a legal custodian of Mr. Bonilla and is named in his official capacity.

STATEMENT OF FACTS

15. Petitioner Jonathan Alexis Bonilla is a 30-year-old native of Colombia who has resided in the United States since 2023.

16. Mr. Bonilla is currently in removal proceedings where he is pursuing humanitarian protection. His next immigration court hearing is scheduled for April 16, 2026.

17. Mr. Bonilla entered the United States on or about December 25, 2023, near Brownsville, Texas. Shortly after crossing, Mr. Bonilla was stopped by Border Patrol officers who took him into custody. Border Patrol officials questioned Mr. Bonilla and then took his biometric information including fingerprints, scans of his eyes, and photos of his tattoos. After about seven hours, Border Patrol officials released Mr. Bonilla to a shelter.

1 18. DHS released Mr. Bonilla on an Order of Recognizance that detailed
2 the conditions of his release. They also issued him a Notice to Appear in immigration
3 court. In doing so, DHS permitted Mr. Bonilla to remain in the community pending
4 his immigration proceedings, so long as he complied with the conditions of his
5 release.

6 19. After release, Mr. Bonilla devoted himself to building
7 and maintaining a stable life in the United States. He moved to California and began
8 taking on contract work in painting and remodeling in order to provide for himself,
9 his eight-year-old son and his mother.

10 20. In addition to being the primary breadwinner for his family, Mr. Bonilla
11 devoted himself to being an active and loving father. Prior to his re-detention, Mr.
12 Bonilla took his son to school, served as a parent volunteer on school field trips, and
13 helped his son with homework. After school, Mr. Bonilla prioritized taking his son
14 to the park and ensuring he had food on the table each night. His son has attention
15 deficit disorder, also known as "ADHD." Mr. Bonilla's active parental involvement
16 was instrumental in supporting his child.

17 21. Mr. Bonilla also prides himself on being a devoted son to his mother.
18 Since all of his siblings reside in Colombia, Mr. Bonilla is the only source of support
19 for his mother in the United States. He provides his mother with financial support,
20 helps her with errands, and spends time with her.

21 22. Apart from being a devoted father and son, Mr. Bonilla was an active
22 member of his faith community prior to his detention. As soon as he arrived in Los
23 Angeles, Mr. Bonilla joined Union Missionary Church. Up until his detention, he
24 attended church there regularly, as often as three times per week. In addition to
25 attending services, he volunteered with the church by completing renovations and
26 serving food on Christmas Eve.

27 23. Mr. Bonilla has never had criminal contact, including since his previous
28 release from DHS custody.

1 24. Mr. Bonilla has complied with all of the requirements imposed
2 by DHS and the immigration court. Since his initial release from DHS custody, he
3 never missed an appointment with ICE or the immigration court.

4 25. Prior to the arrest described below, there were no material changes
5 going to flight risk or danger that would justify DHS's abrupt re-detention of Mr.
6 Bonilla.

7 26. On or around July 2025, Mr. Bonilla attended his scheduled master
8 calendar hearing in immigration court. He was given his next court date for
9 December 2025.

10 27. On August 15, 2025, Mr. Bonilla presented himself to a previously
11 scheduled check-in appointment with ICE. He attended the check-in without issue,
12 and ICE instructed Mr. Bonilla that he would need to present himself for his next
13 check-in in 2026.

14 28. On August 24, 2025, Mr. Bonilla received a letter in the mail instructing
15 him to report to the federal building in Los Angeles the very next day for another
16 check-in.

17 29. As instructed, on August 25, 2025, Mr. Bonilla went to the federal
18 building at 300 North Los Angeles Street in downtown Los Angeles with his son
19 and his mother for what they believed would be a routine check-in.

20 30. At that check-in, ICE officers re-detained Mr. Bonilla. They did not
21 provide an individualized explanation for why a change in circumstances justified
22 his abrupt re-detention.

23 31. Instead, the ICE officer first asked Mr. Bonilla why he missed his court
24 date. Mr. Bonilla responded that he did not miss court, and that his next court date
25 was scheduled for December 2025. He also gave the officer the documents showing
26 he had checked in with ICE just 10 days before this appointment without issue. The
27 officer then asked Mr. Bonilla if he had any tattoos, and he responded that he did.
28 Mr. Bonilla was confused why he was being asked about tattoos, since they were the

1 same tattoos he had prior to entering the United States, which Border Patrol knew
2 about and photographed prior to releasing him from their custody in 2023.

3 32. The ICE officer spoke briefly to another individual before coming back
4 into the room and detaining Mr. Bonilla. When Mr. Bonilla asked why he was being
5 detained, the officer told him that it was because he is not from here.

6 33. Mr. Bonilla told the officer that his mother and son were waiting outside
7 for him. Despite his pleas, Mr. Bonilla did not have a chance to say goodbye to his
8 son or his mom before ICE took him into custody.

9 34. ICE officers took Mr. Bonilla to the basement of the downtown Los
10 Angeles federal building, commonly known as “B-18,” where he spent two nights.

11 35. Mr. Bonilla was detained in B-18 with about 20 other individuals. For
12 two nights, Mr. Bonilla slept on the floor of the basement with only a mat and
13 aluminum blanket. He was unable to speak to family or community while detained
14 in B-18.¹

15 36. While Mr. Bonilla was being held in B-18, he encountered the ICE
16 officer who he had seen at his August 15 check-in, and who had given Mr. Bonilla
17 a follow-up check-in date for 2026. The officer recognized Mr. Bonilla, and asked
18 him why he was there. Mr. Bonilla explained what happened, and said he did not
19 know why he was detained. The officer apologized to him, but said that there was
20 nothing he could do.

21 37. On or around August 27, DHS moved Mr. Bonilla to Otay Mesa
22 Detention Facility (OMDC) where he has been detained ever since.

23 38. Mr. Bonilla has languished in detention for over seven months without
24 a meaningful opportunity to seek release on bond before an immigration judge.

25
26 ¹ B-18 is the subject of ongoing litigation challenging the deplorable
27 conditions of confinement and lack of access to counsel. See First Amended Petition
28 and Complaint, ECF 16, *Vasquez Perdomo v. Noem*, No. 2:25-cv-05605-MEMF-SP
(C.D. Cal. July 2, 2025), available at <https://www.aclusocal.org/cases/vasquez-perdomo-v-noem/?document=Plaintiffs-file-complaint-against-DHS>.

1 Shortly after his detention, Mr. Bonilla sought a bond hearing which was denied for
2 lack of jurisdiction because of the precedential BIA decision in *Matter of Yajure*
3 *Hurtado*, 29 I&N Dec. 216 (BIA 2025) (holding that immigration judges lack
4 jurisdiction to grant bond to individuals who initially entered without
5 inspection). Recently, Mr. Bonilla's immigration attorney filed another application
6 for bond, which he expects will similarly be denied because the BIA's decision
7 in *Yajure Hurtado* is once again in effect. *See* Order, Dkt. 5.1, *Maldonado Bautista*
8 *v. DHS*, No. 26-1044 (9th Cir. Mar. 6, 2026) (granting administrative stay of district
9 court order vacating *Matter of Yajure Hurtado*).

10 39. Mr. Bonilla's detention has caused profound harm. He has now been
11 away from his eight-year-old son, who he was unable to say goodbye to, for over
12 seven months. Prior to his detention, Mr. Bonilla was an active and supportive father
13 in his son's life, including providing for him financially, being involved in his
14 education, helping him manage his ADHD, and providing him with a stable and safe
15 life in the United States. Since Mr. Bonilla's detention, his son has faced increased
16 challenges at school and bullying. Mr. Bonilla has been heartbroken to hear about
17 these challenges without being able to step in and talk to the school or otherwise
18 support his son like he would if he were free from detention. Mr. Bonilla worries
19 about his son all the time, wondering how he is doing, what he is eating, and whether
20 he feels alone.

21 40. It has also been challenging for Mr. Bonilla to be away from his mother.
22 Mr. Bonilla is the only child his mother has in the United States. He was a crucial
23 source of emotional and financial support for her prior to his detention. Mr. Bonilla
24 struggles being away from his mother. He hears how lonely she sounds when they
25 are able to talk on the phone, and he worries about her ability to provide for herself
26 while he is detained.

1 41. While in detention, Mr. Bonilla has also struggled with being separated
2 from his faith community, of which he has been an active member since his arrival
3 in Los Angeles.

4 42. The conditions at OMDC have also been physically and emotionally
5 taxing. Mr. Bonilla struggles to fall asleep at night, as his mind races with thoughts
6 of his family on the outside. He is then woken up by guards at five in the morning.
7 Mr. Bonilla has also struggled with the food at OMDC, sometimes having to eat just
8 bread or rice as a meal.

9 43. Detention has also interfered with Mr. Bonilla's ability to pursue
10 immigration relief and meaningfully participate in ongoing proceedings. Mr.
11 Bonilla's detention made it difficult for him to find an immigration attorney at the
12 outset. Mr. Bonilla has since had a hard time developing a strong working
13 relationship with his lawyer while detained, despite his case continuing to move
14 forward.

15 44. Mr. Bonilla seeks habeas relief to end his unlawful detention and allow
16 him to be reunited with his eight-year-old son, his mother, and his community.

17 LEGAL FRAMEWORK

18 **A. Due Process Constraints on the Detention of Individuals Who Were** 19 **Previously Released from DHS Custody**

20 45. The Due Process Clause of the Fifth Amendment protects all
21 "person[s]" from deprivation of liberty "without due process of law." U.S. Const.
22 amend. V. This protection applies to noncitizens. *Zadvydas v Davis*, 533 U.S. 678,
23 693 (2001).

24 46. "Freedom from imprisonment—from government custody, detention,
25 or other forms of physical restraint—lies at the heart of the liberty that [the Due
26 Process] Clause protects." *Id.* at 690. While immigration laws afford ICE discretion
27 over its decisions to arrest, detain, and revoke prior releases, those decisions are
28 nonetheless constrained by the requirements of the Constitution, including the Due

1 Process Clause. *See generally id.*; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th
2 Cir. 2017); *Kazybayeva v. Warden of Otay Mesa Det. Ctr.*, No. 26-CV-0421-GPC-
3 MMP, 2026 WL 280478, at *3 (S.D. Cal. Feb. 3, 2026) (“The Supreme Court has
4 repeatedly recognized that individuals who have been released from custody, even
5 where such release is conditional, have a liberty interest in their continued liberty”) (quoting *Doe v. Bacerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025)).

7 **a. Procedural Due Process**

8 47. Procedural Due Process ensures that no persons are deprived of their
9 liberty absent a fair process. Under *Mathews v. Eldridge*, 424 U.S. at 319 (1976),
10 courts evaluate procedural Due Process by balancing (1) the private interest affected;
11 (2) the risk of erroneous deprivation of such interest; and (3) the government’s
12 interest. *Id.* at 335.

13 48. With respect to the first *Mathews* factor, the Supreme Court has long
14 recognized that “the liberty [of a person released from government custody] is
15 valuable and must be seen as within the protection of the [Due Process Clause].”
16 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

17 49. In the immigration context, courts have recognized that “even when
18 ICE has the initial discretion to detain or release a noncitizen pending removal
19 proceedings, after that individual is released from custody she has a protected liberty
20 interest in remaining out of custody.” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032
21 (N.D. Cal. 2025) (citing *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at
22 *2 (N.D. Cal. May 6, 2022)).

23 50. Courts in this district have consistently recognized this interest in the
24 context of ICE re-detentions, agreeing that “if DHS has released a noncitizen
25 pending civil removal proceedings, the noncitizen has a protected liberty interest in
26 remaining out of immigration custody.” *Fanfan v. Noem*, No. 3:25-cv-03291-DMS-
27 BJW, 2025 WL 3563739, at *3 (S.D. Cal. Dec. 12, 2025) (quoting *Pablo Sequen v.*
28 *Albarran*, 806 F. Supp. 3d 1069, 1082 (N.D. Cal. 2025)); *see also Bello-Tenorio v.*

1 *LaRose*, No. 26-CV-00616-RBM-BLM, 2026 WL 407959, at *2 (S.D. Cal. Feb. 13,
2 2026); *Aguilera v. City of Holtville*, No. 26-CV-532-LL-MSB, 2026 WL 381633, at
3 *2 (S.D. Cal. Feb. 11, 2026).

4 51. This protectable interest in remaining free from detention exists
5 regardless of whether DHS's prior release was on recognizance or parole. *See Rivera*
6 *v. Warden, Otay Mesa Det. Ctr.*, No. 26-CV-375-JES-AHG, 2026 WL 310193, at
7 *2 (S.D. Cal. Feb. 5, 2026) (noting that "[w]hile courts have recognized these as
8 distinct procedures, they have consistently applied the same procedural due process
9 analysis" to petitioners previously released under recognizance or parole); *see also*,
10 *e.g., Vicky v. Casey*, No. 25-CV-949 JLS (JLB), 2026 WL 608589, at *2 (S.D. Cal.
11 Mar. 4, 2026) (holding petitioner previously released on recognizance "has a
12 protected liberty interest in remaining out of custody"); *Faizyan v. Casey*, No. 25-
13 cv-02884-RBM-JLB, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025) (same);
14 *Sanchez v. LaRose*, No. 25-CV-2396-JED-MMP, 2025 WL 2770629, at *3 (S.D.
15 Cal. Sept. 26, 2025) (finding liberty interest in "freedom from imprisonment" after
16 "the government grants a [noncitizen] parole into the country") (citations omitted);
17 *Bello-Tenorio v. LaRose*, No. 26-CV-00616-RBM-BLM, 2026 WL 407959, at *2
18 (S.D. Cal. Feb. 13, 2026) (same); *Luo v. LaRose*, No. 25CV3848-LL-VET, 2026
19 WL 202872, at *2 (S.D. Cal. Jan. 27, 2026) (same).

20 52. Courts have similarly recognized a liberty interest in continued freedom
21 following release on bond from an immigration judge. *See, e.g., Singh v. Casey*, No.
22 26-CV-1061-JES-DEB, 2026 WL 559779, at *3 (S.D. Cal. Feb. 27, 2026); *Lesic v.*
23 *LaRose*, 25-cv-2746-LL-BJW, 2025 WL 3158675, at *2 (S.D. Cal. Nov. 12, 2025)
24 (citing *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 966 (N.D. Cal. 2019)).

25 53. Thus, Mr. Bonilla has a protectable liberty interest stemming from his
26 prior release from DHS custody on recognizance. *See Vicky*, 2026 WL 608589, at
27 *2.

54. With respect to the second *Mathews* factor—risk of erroneous deprivation—courts in this district and beyond have similarly concluded that there is a high risk of erroneous deprivation of this liberty interest when noncitizens are re-detained without a pre-deprivation hearing. *Fanfan*, 2025 WL 3563739, at *6.

55. The requirement of an individualized determination is particularly strong in cases of re-detention because the prior “[r]elease reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018); *see also* See 8 C.F.R. 1236.1(c)(8) (outlining requirements for release on recognizance).

56. “[T]o be lawful” the re-detention “must be based on evidence that the circumstances relevant to that original release decision have changed.” *Saravia*, 280 F. Supp. 3d at 1196. “To satisfy due process, those changed circumstances must represent individualized legal justification for detention.” *Sanchez*, 2025 WL 2770629, at *3 (internal citations omitted).

57. Here, there is a high risk of erroneous deprivation where Mr. Bonilla was not given a pre-deprivation hearing to determine whether any changed circumstances going to danger or flight risk justified his re-detention. *See Vicky*, 2026 WL 608589, at *3.

58. Finally, with respect to the third *Mathews* factor, the government can claim no interest in re-detention where—as here—there are no changed circumstances going to flight risk or danger. *See Pinchi*, 792 F. Supp. 3d at 1036 (“The government does not claim that any material circumstances have changed that would warrant reassessment of Pinchi’s risk of flight or dangerousness, and it has articulated no other reason for her detention.”); *Fanfan*, 2025 WL 3563739, at *3 (“When the Government has previously decided to release a noncitizen and there is no evidence in the record of any changed circumstance that might have caused the Government to reconsider its initial decision to release the noncitizen ... the

Government's interest in re-detention is low.") (citing *Doe v. Chestnut*, No. 1:25-cv-01372 CDB (HC), 2025 WL 3295154, at *10 (E.D. Cal. Nov. 26, 2025)); *see also Rivera*, 2026 WL 310193, at *3.

59. Even if the government asserted the existence of such changed circumstances, its interest in denying a pre-deprivation hearing to prove that claim is negligible, particularly because custody hearings are a routine practice for immigration courts. Compared to the "staggering" "costs to the public of immigration detention," *Hernandez*, 872 F.3d at 996, "[t]he effort and cost required" of providing a hearing "is minimal." *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025). Thus, the third and final prong of the *Mathews* test similarly weighs in Mr. Bonilla's favor.

60. In sum, Respondents violated Mr. Bonilla's right to procedural Due Process when they re-detained him absent a pre-deprivation hearing to determine whether a material change in circumstances going to flight risk or danger justified his re-detention.

b. Substantive Due Process

61. Immigration detention only comports with Due Process when it furthers the government's goals of "ensuring the appearance of [noncitizens] at future immigration proceedings and preventing danger to the community." *Zadvydas*, 533 U.S. at 690 (internal citations omitted). ICE detention violates substantive Due Process where it is not justified by flight risk or danger concerns. *See id.*

62. In cases involving re-detention, like that of Mr. Bonilla, the risk of a substantive Due Process violation is particularly acute. This is because the prior "[r]elease reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia*, 280 F. Supp. 3d at 1176 (emphasis added). In order to comport with substantive Due Process, a re-detention

1 must therefore “be based on evidence that the circumstances relevant to that original
2 release decision have changed.” *Id.* at 1196.

3 63. Here, Mr. Bonilla’s re-detention violates substantive Due Process
4 because it is not rationally related to any legitimate government purpose, including
5 mitigating flight risk or danger.

6 **C. The Statutory Framework Governing Petitioner’s Detention**

7 64. Mr. Bonilla is detained pursuant to 8 U.S.C. § 1226(a), which provides,
8 in pertinent part, that:

9 “On a warrant issued by the Attorney General, a [noncitizen] may be
10 arrested and detained pending a decision on whether the [noncitizen] is to
11 be removed from the United States. Except as provided in subsection (c)
and pending such decision, the Attorney General--

12 (1) may continue to detain the arrested [noncitizen]; and

13 (2) may release the [noncitizen] on--

14 (A) bond of at least \$1,500 with security approved by, and
15 containing conditions prescribed by, the Attorney
General; or

16 (B) conditional parole”

17 65. Section 1226(a) governs the detention of noncitizens “inside the United
18 States” and “present in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 288–89
(2018).

19 66. Section 1225(b)(2), by contrast, authorizes the detention of applicants
20 for admission who are “seeking admission” but “not clearly and beyond a doubt
21 entitled to be admitted.” Unlike section 1226(a), section 1225(b)(2) provides that
22 individuals who fall under its authority “shall be detained” during the pendency of
23 proceedings, though they too remain eligible for release through the parole process.
24 *Jennings*, 583 U.S. at 300 (holding that release on “parole” under 8 U.S.C. §
25 1182(d)(5)(A) remains available even for people held under otherwise-mandatory
26 detention pursuant to section 1225(b)).

27 67. Mr. Bonilla was unquestionably detained in the interior of the country
28 at an ICE check-in a year and a half after initially entering the United States. Because

1 Mr. Bonilla was not “seeking admission” at the time of his re-detention, his detention
2 is governed by section 1226(a).

3 68. While Respondents have attempted to justify detentions like that of Mr.
4 Bonilla based on their recent interpretation of section 1225(b) in *Matter of Yajure*
5 *Hurtado*, 29 I&N Dec. 216, courts in this district have overwhelmingly rejected that
6 view and there is no governing appellate authority to the contrary. *See, e.g., Garcia*
7 *v. Noem*, 803 F.Supp.3d 1064, 1076-77 (S.D. Cal. 2025) (finding petitioners showed
8 likelihood of success on the merits of their claim they were properly detained under
9 section 1226(a)); *Esqueda Morales v. Noem*, No. 3:26-cv-01800-RBM-MMP, 2026
10 WL 936953 (S.D. Cal. Apr. 7, 2026) (finding petitioner detained in the interior years
11 after her initial release was detained under section 1226(a) not 1225(b)); *He v. Field*
12 *Office Director*, No. 26-cv-0680-DMS-VET, 2026 WL 636706, at *1 (S.D. Cal.
13 Mar. 6, 2026); *Morales-Vichi v. Noem*, No. 25-CV-3754-GPC-KSC, 2025 WL
14 3764699, at *3 (S.D. Cal. Dec. 30, 2025).

15 69. Accordingly, Mr. Bonilla is detained pursuant to section 1226(a).²

16 **D. Administrative Procedure Act**

17 70. Under the APA, courts may set aside agency action that is arbitrary and
18 capricious or contrary to constitutional right. 5 U.S.C. § 706(2)(A)-(B).

19 71. In order to be reviewable under the APA, the challenged action must
20 constitute final agency action, which includes “the whole or a part of an agency rule,
21 order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.”
22 5 U.S.C. § 551(13).

23
24 ² Regardless of which statute governs Mr. Bonilla’s detention, the constraints
25 of the Due Process Clause of the Constitution continue to apply. *Hernandez*, 872
26 F.3d at 981 (“[T]he government’s discretion to incarcerate non-citizens is always
27 constrained by the requirements of due process.”); *c.f. Popov v. Warden of Imperial*
28 *Det. Facility*, No. 26-cv-1174-JES-BLM, 2026 WL 936952, at *2 (finding petitioner
who was detained since being apprehended at the border was subject to detention
under section 1225, but “disagree[ing] that no due process violation can therefore
arise, as [the government] claim[s]”).

1 72. ICE's decision to re-detain Mr. Bonilla constitutes final agency action
2 because the re-detention marks the "consummation" of ICE's decision-making
3 process on the question of Mr. Bonilla's custody, and it is an action "by which rights
4 or obligations have been determined, or from which legal consequences will flow."
5 *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (internal citations omitted); *see also*
6 *Garro Pinchi v. Noem*, No. 25-CV-05632-PCP, 2025 WL 3691938, at *19 (N.D.
7 Cal. Dec. 19, 2025); *Sun*, 2026 WL 161417, at *6-7; *Sanchez*, 2025 WL 2770629,
8 at *4-5. Indeed, the "practical and legal effects of the agency action" are that Mr.
9 Bonilla has been deprived of his liberty with no end in sight. *Oregon Natural Desert*
10 *Ass'n v. U.S. Forest Serv.*, 465 F.3d 977, 982 (9th Cir. 2006).

11 73. Courts must "hold unlawful and set aside agency actions, findings and
12 conclusions" that are (a) arbitrary, capricious, an abuse of discretion, or otherwise
13 not in accordance with the law; (b) contrary to constitutional right, power, privilege
14 or immunity; (c) in excess of statutory jurisdiction, authority, or limitations, or short
15 of statutory right; or (d) without observance of procedures required by law. 5 U.S.C.
16 § 706(2).

17 74. Final agency action is arbitrary and capricious if the agency fails to
18 "articulate a satisfactory explanation for its action including a rational connection
19 between the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n of U.S. v.*
20 *State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal citations omitted).
21 Courts may not consider an agency's "impermissible post hoc rationalizations."
22 *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 21 (2020) (internal citations
23 omitted).

24 75. ICE's decision to re-detain Mr. Bonilla was arbitrary and capricious in
25 violation of the APA because the agency failed to contemporaneously articulate any
26 flight risk or danger-based justifications for its decision. *See Garro Pinchi*, 2025 WL
27 3691938, at *19; *Aguilar-Perez v. LaRose*, No. 25-CV-3409-LL-DDL, 2026 WL
28 92045, at *5-6 (S.D. Cal. Jan. 13, 2026) ("Because Respondents revoked Petitioner's

1 parole and detained her without any rational individualized fact-finding,
2 Respondents acted arbitrarily and capriciously in violation of the APA.”); *see also*
3 *Salvador v. LaRose*, No. 26-CV-00553-BAS-MMP, 2026 WL 381607, at *2 (S.D.
4 Cal. Feb. 11, 2026) (finding revocation of parole arbitrary and capricious under the
5 APA in light of Respondents’ “deafening silence as to the reason”);
6 *Karmamoldoyeva v. Warden of Otay Mesa Det. Ctr.*, No. 26-CV-00423-GPC-MSB,
7 2026 WL 266459, at *6 (S.D. Cal. Feb. 2, 2026); *Sun*, 2026 WL 161417, at *7.
8 Indeed, the only reason that the ICE officers gave Mr. Bonilla for re-detaining him
9 at his check-in appointment was that he was not from the United States.

10 76. The APA also requires courts to “hold unlawful and set aside” final
11 agency action that is “contrary to constitutional right, power, privilege or immunity.”
12 5 U.S.C. § 706(2)(B). As described above, ICE’s decision to re-detain Mr. Bonilla
13 without any individualized flight risk or danger-based justification, is contrary to his
14 rights under the Due Process Clause of the Fifth Amendment.

15 **CLAIMS FOR RELIEF**

16 **COUNT ONE**

17 **VIOLATION OF THE FIFTH AMENDMENT DUE PROCESS CLAUSE**

18 **(Procedural Due Process)**

19 77. Petitioner realleges and incorporates by reference each and every
20 allegation contained above.

21 78. The Due Process Clause of the Fifth Amendment forbids the
22 government from depriving any person of liberty without due process of law. U.S.
23 Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas*, 533
24 U.S. at 693; *Demore v. Kim*, 538 U.S. 510 (2003).

25 79. “The Due Process Clause applies to all ‘persons’ within the United
26 States, including [noncitizens], whether their presence here is lawful, unlawful,
27 temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

1 80. “In the context of immigration detention, it is well-settled that due
2 process requires adequate procedural protections to ensure that the government’s
3 asserted justification for physical confinement outweighs the individual’s
4 constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872
5 F.3d at 990 (cleaned up).

6 81. Under *Mathews v. Eldridge*, courts evaluate procedural Due Process by
7 balancing 1) the private interest affected; 2) the risk of erroneous deprivation of such
8 interest; and 3) the government’s interest. 424 U.S. at 335.

9 82. Immigration detention always implicates the private liberty interest in
10 “freedom from imprisonment.” *Zadvydas*, 533 U.S. at 690. In addition, where, as
11 here, the government releases someone from its custody, that person retains a liberty
12 interest in their on-going release from government custody. *Morrissey*, 408 U.S. at
13 482; *Fanfan*, 2025 WL 3563739, at *5; *Sanchez*, 2025 WL 2770629, at *3;
14 *Kazybayeva*, 2026 WL 280478, at *3.

15 83. Where a detained individual, like Petitioner, does not receive any pre-
16 deprivation hearing, “the risk of an erroneous deprivation of liberty is high because
17 neither the government nor [the petitioner] has had an opportunity to determine
18 whether there is any valid basis for [the] detention.” *Pinchi*, 792 F. Supp. 3d at 1035
19 (cleaned up); *Fanfan*, 2025 WL 3563739, at *6; *Vicky*, 2026 WL 608589, *3.

20 84. The government can claim no interest in re-detention where there are
21 no changed circumstances related to Petitioner’s flight risk or danger that warrant
22 re-detention. *See Fanfan*, 2025 WL 3563739, at *6; *Pinchi*, 792 F. Supp. 3d at 1035.
23 Thus, a fair process for proving the existence of such changed circumstances would
24 satisfy any alleged government interest in re-detention.

25 85. Because Petitioner has a protected liberty interest arising from his prior
26 release from custody, and the government has not afforded Petitioner a pre-
27 deprivation hearing to determine whether changed circumstances going to flight risk
28

1 or danger warrant his re-detention, Petitioner's current detention violates procedural
2 Due Process.

3 **COUNT TWO**

4 **VIOLATION OF THE FIFTH AMENDMENT DUE PROCESS CLAUSE**

5 **(Substantive Due Process)**

6 86. Petitioner realleges and incorporates by reference each and every
7 allegation contained above.

8 87. "Freedom from imprisonment—from government custody, detention,
9 or other forms of physical restraint—lies at the heart of the liberty that Clause
10 protects." *Zadvydas*, 533 U.S. at 690.

11 88. Immigration detention only comports with Due Process when it furthers
12 the government's goals of "ensuring the appearance of [noncitizens] at future
13 immigration proceedings and preventing danger to the community." *Id.* (cleaned up).

14 89. Immigration detention that does not serve the legitimate government
15 purposes of preventing flight or mitigating danger violates substantive Due Process.
16 *Id.*

17 90. Petitioner's detention violates the Due Process Clause because it is not
18 rationally related to any legitimate government purpose.

19 **COUNT THREE**

20 **VIOLATION OF ADMINISTRATIVE PROCEDURE ACT**

21 **5 U.S.C. § 706(2)(A) (arbitrary and capricious agency action)**

22 91. Petitioner realleges and incorporates by reference each and every
23 allegation contained above.

24 92. The APA provides that a "reviewing court shall . . . hold unlawful and
25 set aside agency action, findings, and conclusions found to be . . . arbitrary and
26 capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C.
27 § 706(2)(A).
28

1 93. ICE's decision to re-detain Petitioner constitutes final agency action
2 where it marks the "consummation" of agency decision making and is an action "by
3 which rights or obligations have been determined, or from which legal consequences
4 will flow." *Bennett*, 520 U.S. at 178; *see also Garro Pinchi*, 2025 WL 3691938, at
5 *19.

6 94. Because ICE has failed to articulate a contemporaneous rational
7 explanation for its decision to re-detain Petitioner without a pre-deprivation hearing,
8 and because it cannot provide a post-hoc rationalization for that decision, ICE's re-
9 detention of Petitioner is arbitrary and capricious in violation of the APA. *Motor*
10 *Vehicle Mfrs. Ass'n of U.S.*, 463 U.S. at 42–43; *Regents*, 591 U.S. at 21.

11 **COUNT FOUR**

12 **VIOLATION OF ADMINISTRATIVE PROCEDURE ACT**

13 **5 U.S.C. § 706(2)(B) (unlawful agency action)**

14 95. Petitioner realleges and incorporates by reference each and every
15 allegation contained above.

16 96. The APA provides that a "reviewing court shall . . . hold unlawful and
17 set aside agency action, findings, and conclusions found to be . . . contrary to
18 constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(B).

19 97. Because Petitioners' re-detention is contrary to Petitioner's
20 constitutional rights under the Due Process Clause of the Fifth Amendment, the
21 policy additionally violates the APA as it is contrary to constitutional right. *Id.*

22 **PRAYER FOR RELIEF**

23 Petitioner respectfully requests that this Court:

- 24 1. Assume jurisdiction over this matter;
25 2. Order Respondents to show cause why the writ should not be
26 granted within three days, and set a hearing on this Petition within
27 five days of the return, as required by 28 U.S.C. § 2243;
28

3. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner from custody under the same conditions pursuant to which Petitioner was released prior to his unlawful detention;
4. Issue a temporary restraining order and preliminary injunction ordering the Petitioner's release and enjoining Respondents from further detaining Petitioner without a hearing at which Respondents prove that changed circumstances regarding dangerousness or risk of flight warrant his detention;
5. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the APA;
6. Set aside Respondents' unlawful re-detention of Petitioner pursuant to 5 U.S.C. § 706(2) as unlawful agency action that is arbitrary and capricious, as well as contrary to constitutional right;
7. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
8. Grant such further relief as this Court deems just and proper.

Date: April 9, 2026

Respectfully Submitted,

/s/ Talia Inlender

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**Request for student practice filed
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