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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 Manuel VAZQUEZ-GARCIA,

12 Petitioner,

13 v.

14 Christopher J. LAROSE, Senior Warden,
15 Otay Mesa Detention Center, San Diego,
16 California;

17 Daniel A. BRIGHTMAN, Field Office
18 Director, San Diego Office of Detention
19 and Removal, U.S. Immigrations and
20 Customs Enforcement; U.S. Department
21 of Homeland Security;

22 Todd M. LYONS, Acting Director,
23 Immigration and Customs Enforcement,
24 U.S. Department of Homeland Security;
Sirce OWEN, Acting Director for
Executive Office for Immigration Review;
Markwayne Mullin, Secretary, *U.S.*

Department of Homeland Security;
Todd Blanche, Acting Attorney General of
the United States;

Respondents.

Case No.: '26CV2462 BJC DEB

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS;
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Agency Doc. No.: A 

1 Petitioner MANUEL VAZQUEZ-GARCIA petitions this Court for a writ of
2 habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully,
3 and states as follows:

4 INTRODUCTION

5
6 1. Petitioner, MANUEL VAZQUEZ-GARCIA ("Mr. Vazquez-Garcia" or
7 "Petitioner"), has been residing in the United States since approximately 1987. Mr.
8 Vazquez-Garcia was apprehended by immigration authorities on March 31, 2026 in
9 Encinitas, California, near his home in which he has been residing with his U.S. citizen
10 wife and two of his four U.S. citizen children. Mr. Vazquez-Garcia was arrested without
11 any warrant or probable cause, or any reasonable suspicion that he has violated any laws
12 or was in the United States in violation of any laws. He was arrested in connection with a
13 widescale immigration enforcement action.

14 2. Mr. Vazquez-Garcia is currently detained at the Otay Mesa Detention Center by
15 immigration authorities and is the subject of pending removal hearings.

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17 3. Mr. Vazquez is charged with having entered the United States without inspection
18 and being present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), §
19 1182(a)(7)(A)(i)

20 4. Mr. Vazquez-Garcia was denied release by the Department of Homeland Security
21 (DHS) and sought a bond redetermination hearing before an immigration judge. On April
22 13, 2026, Mr. Vazquez-Garcia was denied the opportunity for a bond redetermination
23 hearing because the IJ held that he lacked jurisdiction over the bond hearing based on
24 new agency policy that all persons who entered without inspection are deemed applicants

1 for admission to the United States and are ineligible for bond redetermination hearings
2 based on the immigration statute, 8 U.S.C. § 1225(b)(2)(A).

3 5. Section 1225(b)(2)(A) states that an applicant for admission seeking admission
4 shall be detained for a removal proceeding. It is the position of the Executive Office for
5 Immigration Review (EOIR), which houses both the BIA and immigration judges, that 8
6 U.S.C. § 1225(b)(2)(A) applies to *all* individuals who arrived in the United States without
7 documents, regardless of how long they have lived in the United States and regardless of
8 how far they were apprehended from the border.

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10 6. However, § 1225(b)(2)(A) does not apply to individuals, like Mr. Vazquez-Garcia,
11 who is present in the United States. Instead, such individuals are subject to detention
12 under a different statute, § 1226(a), and eligible for release on bond.

13 7. Nevertheless, earlier in July 2025, ICE released a memorandum instructing its
14 attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject
15 bond redetermination hearings for applicants who arrived in the United States without
16 documents.¹

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21 ¹ “ICE Says Many In Immigration Detention No Longer Qualify For Bond
22 Hearings,” *CBS News* (Jul. 15, 2025) [https://www.cbsnews.com/news/ice-](https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/)
23 [immigration-detention-bond-hearings/](https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/); “ICE declares millions of undocumented
24 immigrants ineligible for bond hearings,” *The Washington Post* (Jul. 15, 2025)
[https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-](https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/)
[immigrants-bond-hearings/](https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/)

1 8. EOIR has already applied this reasoning in a May 22, 2025 BIA decision, finding
2 that a noncitizen who had been residing in the United States for almost ten years and had
3 entered into the United States without documents was ineligible for bond.

4 9. Further, despite a legal ruling in *Rodriguez v. Bostock*, 2025 WL 1193850 (W.D.
5 Wa. Apr. 24, 2025), rejecting this position, Respondents continue to maintain that
6 noncitizens who entered the United States without inspection are not eligible for bond
7 redetermination hearings, because they are applicants for admission within the meaning of
8 8 U.S.C. § 1225(b)(2)(A).

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10 10. This reading is a violation of the statute and due process.

11 11. As such, Mr. Vazquez-Garcia, by and through his undersigned counsel, hereby
12 petitions this Court under 28 U.S.C. § 2241, et seq., to issue a Writ of Habeas Corpus.
13 Mr. Vazquez-Garcia seeks an order directing Respondents to show cause why Mr.
14 Vazquez-Garcia is being subjected to unlawful and unconstitutional detention.

15 12. Vazquez-Garcia further seeks an order declaring Mr. Vazquez-Garcia's continued
16 detention without a hearing as to flight risk and danger to the community violates the
17 U.S. Constitution and federal law.

18 13. Mr. Vazquez-Garcia seeks immediate release from immigration detention by the
19 Department of Homeland Security, United States Immigration and Customs Enforcement
20 ("ICE"). Mr. Vazquez-Garcia seeks immediate release from custody because
21 Respondents have detained and held him in violation of law and the United States
22 Constitution—even though he has hired counsel and has acted diligently to have an
23 immigration judge ("IJ") review his custody, and the IJ has declined to accept
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1 jurisdiction and denied Mr. Vazquez-Garcia bond. Moreover, release is the appropriate
2 remedy as EOIR is no longer a neutral body.

3 14. Alternatively, Mr. Vazquez-Garcia seeks an order ordering his release from
4 custody under minimum bond of \$1,500.00, or an order of declaratory and injunctive
5 relief and set aside relief under the Administrative Procedure Act requiring that he be
6 provided a bond redetermination hearings before a neutral decisionmaker where DHS
7 bears the burden of justifying Mr. Vazquez-Garcia's continued detention by clear and
8 convincing evidence and where alternatives to detention and Mr. Vazquez-Garcia's
9 ability to pay a bond are considered. Mr. Vazquez-Garcia seeks.
10

11 CUSTODY

12 15. Mr. Vazquez-Garcia is currently in Respondents' legal and physical custody. They
13 are detaining him at the Otay Mesa Detention Center in San Diego, California. He is
14 under Respondents' and their agents' direct control.

15 PARTIES

16 16. Mr. Vazquez-Garcia is a 55-year-old citizen of Mexico, born in Cohetzala Puebla,
17 Mexico. He is currently detained at the Otay Mesa Detention Center in San Diego,
18 California. Mr. Vazquez-Garcia, who has been residing in the United States since
19 approximately 1987, has U.S. citizen immediate relative family members in the United
20 States, namely his wife and four children. His wife became a naturalized U.S. citizen in
21 2024 and is eligible to petition for Mr. Vazquez-Garcia and Mr. Vazquez-Garcia appears
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1 to be eligible for adjustment of status (green card) pursuant to Immigration and National
2 Act Section 245(i).²

3 17.Mr. Vazquez-Garcia is currently in Respondents' legal and physical custody at the
4 Otay Mesa Detention Center in San Diego, California. CoreCivic, Inc., a Maryland
5 corporation, operates that facility.

6 18.Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention
7 Center where Petitioner is being held. Respondent Christopher LaRose oversees the day-
8 to-day operations of the Otay Mesa Detention Center and acts at the Direction of
9 Respondents Brightman, Lyons and Noem. Respondent Christopher LaRose is a
10 custodian of Petitioner and is named in his official capacity.

11 19.Respondent Daniel A. BRIGHTMAN is the Field Office Director of ICE in San
12 Diego, California and is named in his official capacity. ICE is the component of the DHS
13 that is responsible for detaining and removing noncitizens according to immigration law
14 and oversees custody determinations. In his official capacity, he is the legal custodian of
15 Petitioner.

16 20.Respondent Todd M. LYONS is the Acting Director of ICE and is named in his
17 official capacity. Among other things, ICE is a component of the DHS, 6 U.S.C. § 271,
18 and an "agency" within the meaning of the Administrative Procedure Act, 5 U.S.C. §
19 701(b)(1). It is the agency responsible for enforcing immigration laws, and it is detaining
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22 ² Even though Mr. Vazquez-Garcia entered without inspection and would generally be
23 ineligible to adjust status in the United States, there were two petitions (one family and
24 one employment) on his behalf prior to April 30, 2001, which therefore makes him
eligible for adjustment of status under Section 245(i).

1 Mr. Vazquez-Garcia. Respondent Lyons has custodial authority over Mr. Vazquez-
2 Garcia, who names him in his official capacity.

3 21. Respondent Sirce OWEN is the Acting Director of EOIR and has ultimate
4 responsibility for overseeing the operation of the immigration courts and the Board of
5 Immigration Appeals, including bond hearings. Executive Office for Immigration Review
6 (EOIR) is the federal agency responsible for implementing and enforcing the INA in
7 removal proceedings, including for custody redeterminations in bond hearings. She is
8 sued in her official capacity.

9
10 22. Respondent Markwayne Mullin is the Secretary of the DHS and is named in his
11 official capacity. DHS is the federal agency encompassing ICE, which is responsible for
12 the administration and enforcement of the INA and all other laws relating to the
13 immigration of noncitizens. In his capacity as Secretary, Respondent Mullin has
14 responsibility for the administration and enforcement of the immigration and
15 naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107
16 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a).
17 Respondent Mullin is the ultimate legal custodian of Petitioner.

18 23. Respondent Todd Blanche is the Acting Attorney General of the United States and
19 the most senior official in the U.S. Department of Justice (DOJ) and is named in his
20 official capacity. He has the authority to interpret the immigration laws and adjudicate
21 removal cases. The Attorney General delegates this responsibility to the Executive Office
22 for Immigration Review (EOIR), which administers the immigration courts and the BIA.
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24 **JURISDICTION AND VENUE**

1 24. This action arises under the United States Constitution and the Immigration and
2 Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Mr. Vazquez-
3 Garcia's detention under the INA and any inherent or plenary powers the government
4 may claim to continue holding him.

5 25. This Court has jurisdiction under 28 U.S.C. § 1331, § 2241; 5 U.S.C. §§ 701–706
6 (Administrative Procedure Act, “APA”); and the Suspension Clause, U.S. Const. art. I, §
7 9, cl. 2, and the Fifth and Eighth Amendments of the United States Constitution.
8 Jurisdiction is not limited by a petitioner's nationality, immigration status, or any other
9 classification. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008). The Court may grant
10 relief under the Suspension Clause; the Fifth and Eighth Amendments; 5 U.S.C. § 706
11 (APA); and 28 U.S.C. §§ 1361 (Mandamus Act), 1651 (All Writs Act), 2001
12 (Declaratory Judgment Act), and 2241 (habeas corpus).

13 26. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Mr.
14 Vazquez-Garcia's detention. Federal district courts possess broad authority to issue writs
15 of habeas corpus when a person is held “in custody in violation of the Constitution or
16 laws or treaties of the United States” (28 U.S.C. § 2241(c)(3)), and this authority extends
17 to immigration detention challenges that survived the REAL ID Act's jurisdictional
18 restrictions. Because Mr. Vazquez-Garcia seeks the traditional habeas remedy of release
19 from allegedly unlawful detention, his petition presents precisely the type of threshold
20 legality-of-detention question that § 2241 was designed to address. *See INS v. St. Cyr*,
21 533 U.S. 289, 301 (2001); *see also Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir.
22 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211–12 (9th Cir. 2011)). And federal
23 24

1 courts are not stripped of jurisdiction under 8 U.S.C. § 1252. See, e.g., *Zadvydas v.*
2 *Davis*, 533 U.S. 678, 687 (2001). No court has ruled on the legality of Mr. Vazquez-
3 Garcia's detention.

4 27. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a
5 substantial part of the events or omissions giving rise to this claim have happened here,
6 Mr. Vazquez-Garcia is detained here, and his custodian resides here. Venue is also proper
7 under 28 U.S.C. § 2243 because Mr. Vazquez-Garcia's immediate custodian resides in
8 this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451-52 (2004) (Kennedy, J.,
9 concurring).

11 **FACTUAL BACKGROUND**

12 28. Mr. Vazquez-Garcia is a 55-year-old citizen of Mexico, born in Cohetzala Puebla,
13 Mexico. Mr. Vazquez-Garcia, who has been residing in the United States since
14 approximately 1987, has U.S. citizen immediate relative family members in the United
15 States, namely his wife and four children..

16 29. Mr. Vazquez-Garcia initially arrived in the United States in approximately 1987
17 and entered the United States without inspection and without valid entry documents or a
18 visa. He is married and has four children who were born in the United States.

19 30. Mr. Vazquez-Garcia has never been arrested and has no criminal record. He is a
20 very responsible individual with strong and longstanding ties to the community. In fact,
21 he is a pillar of his community. He has lived with his wife in Encinitas for over 20 years
22 and has four children, all of whom reside in San Diego County. Mr. Vazquez-Garcia's
23 oldest son, who resides in Vista, is an attorney and works as a public defender in Vista.
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1 His two youngest children continue to live at the Encinitas residence, one of whom is still
2 in high school and significantly dependent on Mr. Vazquez-Garcia.

3 31. Mr. Vazquez-Garcia was detained by immigration authorities on March 31, 2026
4 in Encinitas, California, near his home. Mr. Vazquez-Garcia was arrested without any
5 warrant or probable cause, or any reasonable suspicion that he has violated any laws or
6 was in the United States in violation of any laws. He was arrested in connection with a
7 widescale immigration enforcement action.

8 32. Mr. Vazquez-Garcia was placed into removal proceedings to appear before an IJ
9 and was charged with having entered the United States without inspection and being
10 present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), §
11 1182(a)(7)(A)(i).

12 33. Following his arrest and initiation of removal proceedings against him, Mr.
13 Vazquez-Garcia was denied release by the Department of Homeland Security (DHS) and
14 sought a bond redetermination hearing before an immigration judge. Mr. Vazquez-
15 Garcia, through his counsel, filed a bond evidence packet which consisted of 197 pages,
16 and which included a sponsorship letter from his son who is an attorney and a works as a
17 public defender, and whose income is well in excesses of the amount needed to ensure
18 Mr. Vazquez-Garcia's attendance at his future immigration hearings and appointments.
19 See Exh. 1.
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21 34. On April 13, 2026, Mr. Vazquez-Garcia was denied the opportunity for a bond
22 redetermination hearing. Specifically the IJ states in its order,
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1 “The evidence indicates that the respondent entered the country without inspection
2 and thus is an applicant for admission under INA section 235(a)(1) and subject to
3 mandatory detention under INA section 235(b)(1)(B)(iii)(IV). *Matter of Yajure*
4 *Hurtado*, 29 I&N Dec. 216 (BIA 2025). The court notes that the *Maldonado Bautista*
orders were stayed by the 9th Circuit on 6 March 2025. *See Maldonado Bautista v.*
DHS, No 26-1044 (9th Cir., Mar. 6, 2026).

5 Exh. 2.

6 35. Mr. Vazquez-Garcia is neither a flight risk nor a danger to others. In fact, he is the
7 opposite. See Exhibit 1, including over 30 letters from his sponsor and witnesses in the
8 community who know him.

9 36. Mr. Vazquez-Garcia’s detention without a tenable justification violates his rights
10 under the Due Process Clause of the Fifth Amendment.

11 LEGAL BACKGROUND

12 37. The Immigration and Nationality Act (INA) prescribes three basic forms of
13 detention for noncitizens in removal proceedings.

14 38. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-
15 expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a.
16 Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their
17 detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
18 arrested, charged with, or convicted of certain crimes are subject to mandatory detention,
19 *see* 8 U.S.C. § 1226(c).

20 39. Second, the INA provides for mandatory detention of noncitizens subject to
21 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking
22 admission referred to under § 1225(b)(2).
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1 40.Last, the Act also provides for detention of noncitizens who have been previously
2 ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. §
3 1231(a)–(b).

4 41.This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

5 42.The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
6 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L.
7 No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–
8 585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act,
9 Pub. L. No.119-1, 139 Stat. 3 (2025).

10 43.Following enactment of the IIRIRA, EOIR drafted new regulations explaining that,
11 in general, people who entered the country without inspection were not considered
12 detained under § 1225 and that they were instead detained under § 1226(a). *See*
13 Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct
14 of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

15 44.Thus, in the decades that followed, most people who entered without inspection—
16 unless they were subject to some other detention authority—received bond hearings. That
17 practice was consistent with many more decades of prior practice, in which noncitizens
18 who were not deemed “arriving” were entitled to a custody hearing before an IJ or other
19 hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at
20 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously
21 found at § 1252(a)).
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1 45. Respondents' new policy turns this well-established understanding on its heads and
2 violates the statutory scheme.

3 46. Indeed, this legal theory that noncitizens who entered the United States without
4 admission or parole are ineligible for bond hearings was already rejected by a District
5 Court in the Western District of Washington, finding that such individuals are entitled to
6 bond redetermination hearings before immigration judges, and rejecting the application of
7 § 1225(b)(2) to such cases. *Rodriguez v. Bostock*, No. 3:25-CV-05240- TMC, 2025 WL
8 1193850, at *12 (W.D. Wash. Apr. 24, 2025).

9 47. Despite this finding from a federal court, in July 2025, ICE released a
10 memorandum instructing its attorneys to coordinate with the Department of Justice, the
11 agency housing EOIR, to reject bond redetermination hearings for applicants who arrived
12 in the United States without documents.

13 48. A May 22, 2025 unpublished BIA decision confirms that EOIR is taking this same
14 position that noncitizens who entered the United States without admission or parole are
15 ineligible for immigration judge bond hearings.

16 49. This is now a widespread position applying across the United States.

17 50. This interpretation defies the INA. The plain text of the statutory provisions
18 demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

19 51. Section 1226(a) applies by default to all persons "pending a decision on whether
20 the [noncitizen] is to be removed from the United States." These removal hearings are
21 held under § 1229a, which "decid[e] the inadmissibility or deportability of a[]
22 [noncitizen]."
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1 52. The text of § 1226 also explicitly applies to people charged as being inadmissible,
2 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E).

3 Subparagraph (E)'s reference to such people makes clear that, by default, such people are
4 afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that
5 it applies to people who face charges of being inadmissible to the United States,
6 including those who are present without admission or parole.

7 53. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
8 recently entered the United States. The statute's entire framework is premised on
9 inspections at the border of people who are "seeking admission" to the United States. 8
10 U.S.C. § 1225(b)(2)(A).

11 54. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
12 people like Petitioner who are alleged to have entered the United States without
13 admission or parole.

14 EXHAUSTION OF REMEDIES

15 55. Mr. Vazquez-Garcia has exhausted all administrative remedies, and no further
16 ones are available. Furthermore, for habeas claims, exhaustion of administrative remedies
17 is prudential, not jurisdictional. Hernandez, 872 F.3d at 988. A court may waive the
18 prudential exhaustion requirement if "administrative remedies are inadequate or not
19 efficacious, pursuit of administrative remedies would be a futile gesture, irreparable
20 injury will result, or the administrative proceedings would be void." *Id.* (quoting Laing v.
21 Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).
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1 Petitioner asserts that exhaustion should be waived because administrative remedies are
2 (1) futile and (2) his continued detention results in irreparable harm.

3 56. Exhausting administrative remedies here is futile because Respondents contend
4 Mr. Vazquez-Garcia is subject to mandatory detention. As such, no request to release him
5 from custody would be considered by ICE and Mr. Vazquez-Garcia's repeated requests
6 for parole release have been denied. Moreover, immigration judges in this district claim
7 to have no jurisdiction to conduct a custody redetermination hearing as to individuals
8 procedurally situated like Mr. Vazquez-Garcia. Indeed, in contravention to the INA and
9 long-standing precedent and practice, the Board of Immigration Appeals and Attorney
10 General have deemed no noncitizen eligible for bond before an immigration judge (with
11 the exception of only noncitizens who entered the U.S. on a visa). As such, any attempts
12 to exhaust administrative remedies would be entirely futile.

14 57. Moreover, no statutory exhaustion requirements apply to Petitioner's claim of
15 unlawful custody in violation of his due process rights, and there are no administrative
16 remedies that he needs to exhaust. See Am.-Arab Anti-Discrimination Comm. v. Reno,
17 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile exercise because
18 the agency does not have jurisdiction to review" constitutional claims); In re Indefinite
19 Det. Cases, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

20 58. More importantly, every day that Petitioner remains detained causes him harm
21 that cannot be repaired. His continued detention puts his physical and mental health at
22 greater risk, further warranting a finding of irreparable harm and the waiver of the
23 prudential exhaustion requirement.
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1 59. The Court must consider this in its irreparable harm analysis of the effects on
2 Petitioner as his detention continues. See De Paz Sales v. Barr, No. 19-CV-07221-KAW,
3 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020) (noting that the petitioner “continues to
4 suffer significant psychological effects from his detention, including anxiety caused by
5 the threats of other inmates and two suicide attempts,” in finding that petitioner would
6 suffer irreparable harm warranting waiver of exhaustion requirement).

7
8 **RELEASE IS THE CONSTITUTIONALLY APPROPRIATE REMEDY AS**
9 **MR. VAZQUEZ-GARCIA WAS NOT AND WILL NOT BE PROVIDED AN**
10 **INDIVIDUALIZED BOND HEARING BEFORE A NEUTRAL ARBITER**
11 **AND EOIR IS NO LONGER A NEUTRAL BODY**

12 60. Beginning in 2025, the EOIR system has been transformed into a body that is
13 structurally incapable of upholding Mr. Vazquez-Garcia’s statutory and constitutional
14 rights. It has never been an independent judicial body but rather it is an Article I
15 administrative court, which bows to the directives of the Executive. The collusion
16 between DHS and EOIR has become even more readily apparent than in past years due to
17 (1) the firing of IJs with high asylum grant rates, (2) the reduction of BIA members, (3)
18 the rebranding of IJs into deportation judges, (3) the substantial increase in precedential
19 decisions issued by the BIA that disfavor noncitizens (without any countervailing
20 favorable precedent), (4) directives by EOIR to favor the Department, and (5) instructions
21 by EOIR for IJs to defy federal court rulings.

22 61. First, as of September 26, 2025, the administration terminated 128 IJs. The
23 terminated and resigned judges report three consistent themes. First, explicit pressure to
24 serve as instruments of mass deportation rather than neutral adjudicators. Former

1 Baltimore IJ Emmett Soper stated: “I think the current administration of the immigration
2 courts does not fundamentally see the immigration courts as neutral decision-makers. I
3 think that they see the immigration courts as a tool for this administration to advance its
4 policy objectives.”³ Former San Francisco IJ Jeremiah Johnson similarly understood “the
5 hint that they should be hearing cases a certain way, deciding cases a certain way. Move
6 faster. Less due process, essentially.”⁴ Former San Francisco IJ George Pappas was even
7 more direct: “We were told to facilitate deportation. . . Due process is dead in
8 immigration courts.”⁵ Further, IJs fear they will lose their jobs if they do not comply
9 with directives. “Judges feel like, if they step a toe out of line right now...or they’re one
10 [asylum] grant away from being fired because of the arbitrary nature of the firings.”
11 Bloomberg News reported that “[t]op immigration court leaders are telling new judges to
12 refrain from granting migrants asylum in most cases, multiple people familiar with the
13 matter said as the Trump administration carries out its detention and deportation agenda.
14 Justice Department Board of Immigration Appeals judges and others who assisted with
15 training of three dozen new judges in October told the recruits asylum should be granted
16 only in rare circumstances. . .”⁶ A recently hired temporary military judge was swiftly
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19 ³ “Ousted immigration judge describes deepening court backlog,” PBS News, November 12, 2025,
20 found at: <https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog> (last visited on April 9, 2026)

21 ⁴ “An all-out attack on immigration court: SF immigration judges speak out after firings,” NBC Bay
22 Area Investigative Unit, November 25, 2025, found at” <https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/> (last visited on April 9, 2026)

22 ⁵ “Judges See An Immigration Court Gutted From Inside,” LAW360, October 31, 2025, found at:
23 <https://www.law360.com/access-to-justice/articles/2381003/judges-see-an-immigration-court-gutted-from-inside> (last visited on April 9, 2026)

24 ⁶ “Trump Immigration Judges Pushed to Deny Asylum in Swift Training,” Bloomberg Law, February 4, 2026, found at: <https://news.bloomberglaw.com/us-law-week/trump-immigration-judges-pushed-to-deny-asylum-in-swift-training> (last visited on April 9, 2026)

1 fired shortly after being hired. Although an official reason for his firing was not provided,
2 the available statistics show that “[o]f the 11 cases he concluded in November, he granted
3 asylum or some other type of relief allowing the migrant to remain in the U.S. a total of
4 six times.”

5 62. There is also clear data that was analyzed for Sacramento and San Francisco
6 immigration courts showing that the IJs fired from those courts had higher asylum grant
7 rates than other judges. “[E]ach of the three judges denied asylum claims at far lower
8 rates than other judges in Sacramento and nationwide. Maggard, for instance, denied less
9 than 5% of claims — far below the national average of roughly 60% for immigration
10 judges.”⁷ For San Francisco, “[a]lmost all of the judges fired this year offered asylum or
11 other forms of deportation relief at rates significantly higher than the national average of
12 45% in federal fiscal 2024, according to information from the Transactional Records
13 Access Clearinghouse at Syracuse University. Eleven of the 12 had grant rates higher
14 than 90%.” All of this fear has led to the erosion of judicial independence. Former San
15 Francisco IJ Elizabeth Young explained: “I’ve talked to many of [the judges still
16 serving], and they’re like, ‘When I go into court, I am concerned about applying the law,
17 but I’m also concerned that I should deny more, because if I don’t, then I’ll get fired.”
18

19 63. Remaining IJs, thus, have a clear directive to deny more cases or be fired. No
20 adjudicator can remain impartial when faced with the choice between upholding due
21

22
23 ⁷ “Former judges say mass firings could undermine immigration court system,” capradio.org, September
24 30, 2025, found at: <https://www.capradio.org/articles/2025/09/30/former-judges-say-mass-firings-could-undermine-immigration-court-system/> (last visited on April 9, 2026)

1 process or maintaining their livelihood. Any IJ assigned to a noncitizen's bond hearing
2 now operates under the understanding that granting bond may cost them their job. Along
3 the same lines, beginning in 2025, the Trump administration reduced the number of BIA
4 members. This move is seen by many as an attempt to ensure that the smaller number of
5 Board members are politically aligned with the Administration's anti-immigrant goals. In
6 addition, the administration published Appellate Procedures for the Board of Immigration
7 Appeals, which were to make summary dismissal of all appeals, the default. Despite these
8 rules being temporarily blocked by a federal court, by promulgating these rules, the
9 agency is attempting to render administrative review obsolete.
10

11 64. Next, the Board has issued a record number of precedential decisions that are
12 devastating and detrimental to noncitizens. As of March 19, 2026, the reconstituted BIA
13 has issued 89 published decisions. In 2025, all but two favored the Department (97%). In
14 2026, of the twenty-one decisions decided as of March 19, 2026, all but one favored the
15 Department. By contrast, during the entire four-year span of the prior administration, the
16 BIA issued 76 published decisions. Of those, 46 decisions (60%) favored the
17 administration. A historical look at BIA decisions spanning 2009 to 2026 shows that
18 under both Trump presidencies the BIA favored the Department more than under any
19 other president. The transformation from 60% to 97% pro-government outcomes—
20 achieved through wholesale termination of the prior administration's appointees—speaks
21 for itself.
22

23 65. To replace purged judges, the DOJ launched recruitment for what it explicitly
24 marketed as "deportation judges." DHS—the party opposing noncitizens in immigration

1 proceedings before EOIR— promoted these openings on social media with enforcement-
2 focused language: “Bring the hammer down on criminal illegal aliens” and “Defend your
3 communities, your culture, your very way of life.” In addition, DOJ authorized up to 600
4 military lawyers to serve as temporary judges for a renewable term not to exceed six
5 months, while simultaneously eliminating requirements to serve as a temporary judge.
6 Previously, temporary judge candidates were required to have served as a former IJ,
7 appellate IJ, or administrative judge within another agency, or to have at least 10 years of
8 immigration law experience. The administration removed those requirements entirely,
9 allowing “any attorney” to be selected as a temporary IJ and reduced training to
10 approximately two weeks—far less than the standard training for permanent IJs, which
11 includes six weeks of initial training, one year of mentorship by an experienced judge,
12 and two years of quarterly reviews.

14 66. In addition to personnel changes, EOIRs new acting director, Sirce E. Owen,
15 issued new policy directives including a memorandum dated June 27, 2025 warning
16 judges not to demonstrate “bias directed against DHS” or to be “adjudicatory outliers,” at
17 risk of “close examination and potential action”; a memo encouraging judges to deny
18 asylum applications without full evidentiary hearings, styled as efficiency guidance but
19 functioning as a directive to reduce due process protections;” and memorandums
20 restricting IJs ability to grant continuance and administrative closure.

22 67. Finally, the clearest evidence that EOIR has abandoned its role as a neutral tribunal
23 comes from its response to federal court orders protecting bond hearing rights. In
24 *Maldonado Baiitista v. Santacruz*, the Central District of California issued both

1 declaratory and injunctive relief holding that noncitizens who entered without inspection
2 but were not apprehended at the border are detained under § 1226(a), not §1225(b)(2),
3 and are therefore entitled to bond hearings. *Maldonado Baiitista v. Santacruz*, No. 5:25-
4 CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 20, 2025). Judge Sunshine
5 Sykes certified a nationwide class and entered final judgment. *Id.* Rather than comply
6 with the order, EOIR leadership directed all IJs to ignore the order. “On January 13,
7 2026, Chief Immigration Judge Teresa L. Riley issued guidance instructing IJs that,
8 notwithstanding the district court’s amended order and final judgment, IJs continued to
9 be bound by *Yajure Hurtado*.” When presented with a federal court order protecting
10 noncitizens’ rights, EOIR’s response was to order judges to violate it. The ultimate victim
11 is the detained noncitizen, who like Mr. Vazquez-Garcia, remains detained in violation of
12 due process, and is denied their fundamental right to have an impartial adjudicator
13 determine whether their continued detention serves any legitimate purpose related to
14 flight risk or community safety.

16 CAUSES OF ACTION

17 COUNT ONE

18 Violation of 8 U.S.C. § 1226(a) 19 Unlawful Denial of Bond Hearing

20 68. Petitioners repeat, re-allege, and incorporate by reference each and every allegation
21 in the preceding paragraphs as if fully set forth herein.

22 69. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
23 noncitizens residing in the United States who are subject to the grounds of inadmissibility
24 because they previously entered the country without being admitted or paroled. Such

noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

70. The application of § 1225(b)(2) to bar Petitioners from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.

COUNT TWO
Violation of the Administrative Procedure Act
Unlawful Denial of Bond

71. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

72. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

73. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT THREE
Violation of Procedural Due Process

74. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

75. 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).

76. Petitioners have a fundamental interest in liberty and being free from official restraint.

77. The government’s detention of Petitioners without a bond redetermination hearing to determine whether they are a flight risk or danger to others violates their right to due process.

PRAYER FOR RELIEF

WHEREFORE, Mr. Mr. Vazquez-Garcia prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue the writ of habeas corpus and order Respondents to show cause, within three days of Petitioner’s filing this petition, why the relief he seeks should not be granted; and set a hearing on this matter within five days of Respondents’ return on the order to show cause (*see* 28 U.S.C. § 2243);
- (3) Enjoin Respondents from transferring Petitioner outside the jurisdiction of the Southern District of California pending the resolution of this case;
- (4) Declare that the refusal to allow Petitioner a bond redetermination

1 hearing before an immigration judge violates the INA, APA, and Due
2 Process;

3 (5) Set aside Respondents' unlawful detention policy under the
4 APA, 5 U.S.C. § 706(2);

5 (6) Issue a Writ of Habeas Corpus requiring Respondents to immediately
6 release Petitioner and to return Petitioner's personal documents and
7 possessions upon his release;

8 (7) Alternatively, order Petitioner's release from custody under minimum
9 bond of \$1,500.00, or

10 (8) Hold a prompt bond hearing, at which the Government must prove by
11 clear and convincing evidence that his continued detention is justified,
12 consistent with due process and *Singh v. Holder*, 638 F.3d 1196 (9th Cir.
13 2011); or

14 (9) Direct a bond redetermination hearings before a neutral decisionmaker
15 where DHS bears the burden of justifying Petitioner's continued
16 detention by clear and convincing evidence and where alternatives to
17 detention and his ability to pay a bond are considered.

18 (10) Award reasonable costs and attorney fees under the
19 Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412,
20 and on any other basis justified under law;

21 (11) Grant such further relief as the Court deems just and
22 proper.
23
24

Respectfully submitted,

April 17, 2026

By: /s/ Bashir Ghazialam
Bashir Ghazialam

Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition and reviewed Petitioner's immigration file. Based on said review and those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this April 17, 2026, in San Diego, California.

/s/ Bashir Ghazialam
Bashir Ghazialam
Attorney for Petitioner