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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Enrique Paz-Vasquez

Petitioner,

v.

Todd Blanche,
Attorney General of the United States,

Markwayne Mullin, Secretary,
Department of Homeland Security,

Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement;

Christopher D. McGregor, Acting Field Office Director of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Phoenix,

Eric Rokowsky, Warden
Eloy Detention Center

Respondents.

No.

PETITION FOR WRIT OF HABEAS CORPUS

28 U.S.C. § 2241

INTRODUCTION

Petitioner Enrique Paz-Vasquez ("Paz-Vasquez"), A[redacted] by and through undersigned counsel, hereby petitions for a writ of habeas corpus. On March 6, 2026, an Immigration Judge ("IJ") conducted a bond redetermination hearing and denied Paz-Vasquez bond after finding Paz-Vasquez is subject to mandatory detention under INA § 212(a)(6)(A)(, (6)(C), or (7); Laken Riley Act.

Paz-Vasquez's continued detention violates both substantive and procedural due process. While immigration detention may be permissible for a limited time to ensure appearance at proceedings or protect the community, it becomes unconstitutional when it is excessively prolonged, punitive in effect, or imposed without meaningful review.

After more than six months in custody under a mandatory detention scheme, his confinement no longer bears a reasonable relation to its civil purpose. Accordingly, the Court should grant the writ and order his release, or alternatively require a prompt bond hearing requiring the government to justify confinement by clear and convincing evidence.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in federal custody within the District of Arizona and is challenging the legality of his custody and alleges violations of the U.S. Constitution, federal statutes, and applicable regulations.

2. This Court has jurisdiction pursuant to the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 701-706. Jurisdiction also exists under 28 U.S.C. § 1331, as this action arises under the laws and Constitution of the United States.

3. Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, and the Court has supplemental remedial authority under the All Writs Act, 28 U.S.C. § 1651, to issue such writs as may be necessary to preserve its jurisdiction and protect Petitioner's rights. The Government has waived its sovereign immunity pursuant to 5 U.S.C. § 702.

4. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Paz-Vega is detained in Arizona and his immediate custodian is in this District.

PARTIES

5. Petitioner Paz-Vasquez is a native and citizen of Mexico. He was detained by agents of U.S. Immigration and Customs Enforcement ("ICE") on or about October 22, 2025.

6. Respondent Todd Blanche is the Attorney General of the United States. As the Attorney General, he oversees the immigration court system, including all Immigration Judges ("IJ"), and the Board of Immigration Appeals ("BIA"), and has authority over immigration detention. Paz-Vasquez brings this action against Respondent Blanche in his official capacity.

7. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security ("DHS"), which oversees ICE, the federal agency responsible for the administration and enforcement of immigration laws and has supervisory responsibility for and authority over the detention and removal of non-citizens throughout the United States. Respondent Noem is the ultimate legal custodian of Paz-Vasquez. Paz-Vasquez brings this action against Respondent Mullin in his official capacity.

8. Respondent Todd Lyons is the Acting Director ICE. In that capacity, he is charged with overseeing all ICE detention and has the authority to make custody determinations. Respondent Lyons is a legal custodian of Paz-Vasquez. Paz-Vasquez brings this action against Respondent Lyons in his official capacity.

9. Respondent Christopher D. McGregor is the Acting Field Office Director of the ICE Enforcement and Removal Operations ("ERO") Phoenix Office. In that capacity, he is charged with overseeing all ICE detention centers in Arizona and has the authority to make custody determinations regarding individuals detained there. Respondent McGregor is a legal custodian of Paz-Vasquez. Respondent McGregor has immediate legal custody of Paz-Vasquez. Paz-Vasquez brings this action against Respondent McGregor in his official capacity.

10. Respondent Eric Rokowsky is the Warden of the Eloy Detention Center, which is operated by CoreCivic and contracted by DHS. As such, he is the immediate physical custodian of Paz-Vasquez, and he is named in his official capacity.

STATEMENT OF FACTS

11. Paz-Vasquez is a 34-year-old native and citizen of Mexico. He is married to Monica Jacome, a Lawful Permanent Resident. Paz-Vasquez has five U.S. citizen children.

12. Paz-Vasquez first entered the United States without inspection around July 2006.

13. He illegally re-entered the U.S. without inspection at an unknown date after his 2010 removal.

14. On October 21, 2025, Paz-Vasquez was arrested by the Phoenix Police Department for shoplifting over $1,000 worth of merchandise from a Home Depot.

15. The Maricopa County Superior Court ordered his supervised release on his own recognizance for the shoplifting charge.

16. On or about October 22, 2025, Paz-Vasquez was taken into immigration custody by ICE officials pursuant to an ICE hold.

17. On November 4, 2025, DHS initiated new removal proceedings, charging Paz-Vasquez with being present in the U.S. without admission or parole under INA § 212(a)(6)(A)(i).

18. On December 2, 2025, Paz-Vasquez filed an EOIR 42-B Application for Cancellation of Removal and Adjustment of Status for Non-Permanent Residents with the immigration court.

19. In January 2026, an IJ found Paz-Vasquez satisfied the high burden of "exceptional and extremely and unusual hardship" for relief under 8 USC § 1229b, Cancellation of Removal for Non-Permanent Residents. However, despite having met his evidentiary burden, the IJ denied Paz-Vega 42-B relief as a matter of discretion. However, the IJ granted Paz-Vasquez post-conclusion voluntary departure as a matter of discretion.

20. On January 26, 2026, Paz-Vasquez filed an appeal of the IJ's discretionary denial of his 42-B application with the BIA. The appeal is currently pending.

21. On March 6, 2026, an IJ denied Paz-Vasquez request for release on bond. The IJ held that Paz-Vasquez is subject to mandatory detention due to his criminal history under the Laken Riley Act. *See* Exhibit A.

ARGUMENT

I. Paz-Vasquez's continued detention violates substantive due process because the punitive nature and length exceed the bounds of constitutional detention.

22. "Deprivations of physical liberty are a pervasive feature of our current system of immigration enforcement. While the temporary detention of non-citizens may sometimes be justified by concerns about public safety or flight risk, the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process." *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

23. The Due Process Clause protects ""all 'persons'"—including all noncitizens—against arbitrary detention. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Id.* at 690.

24. Substantive due process prohibits civil detention that is punitive in purpose or in effect, including civil detention that is excessively prolonged in relation to its purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Put otherwise, "due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed"; otherwise, the commitment amounts to punishment. *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (quoting Jackson, 406 U.S. at 738).

25. Moreover, even while the Constitution permits mandatory detention for certain categories of noncitizens in removal proceedings, such confinement may become punitive when it is "excessively prolonged." *United States v. Salerno*, 481 U.S. 739, 474 n.4 (1987). Thus, as a detained person's time in custody increases, so too does their liberty interest. *See Zadvydas*, 533 U.S. at 699–700. "[F]or detention to remain reasonable," greater justification is needed "as the period of confinement grows." *Id.* at 701.

26. Accordingly, "at some point, regardless of the risks, due process will require that [a person subject to prolonged civil confinement] be released." *United States. v. Torres*, 995 F.3d 695, 709–10 (9th Cir. 2021) (noting that federal government had conceded this point); *see also United*

States v. Briggs, 697 F.3d 98, 103 (2d Cir. 2012) (stating that "for every set of circumstances, due process does impose some limit" on civil confinement).

27. Applying these principles, the Ninth Circuit has held that civil detention violates substantive due process (1) when it is "expressly intended to punish," or (2) when "the challenged restrictions serve an alternative, non-punitive purpose but are nonetheless excessive in relation to the alternative purpose, . . . or are employed to achieve objectives that could be accomplished in so many alternative and less harsh methods." *Jones*, 393 F.3d at 932 (citation modified).

28. These principles apply to civil immigration detention. *Nguyen v. Fasano*, 84 F.Supp.2d 1099, 1113 (S.D. Cal. 2000); see also *Zadvydas*, 533 U.S. at 690; *Reid v. Donelan*, 17 F.4th 1, 8 (1st Cir. 2021). Because the purpose of immigration detention under INA § 1226(c) is to effectuate expeditious removal and safeguard the community, immigration detention that does not "bear some reasonable relation" to that purpose in nature or duration amounts to punishment and violates the Due Process Clause. *Jones*, 393 F.3d at 931.

29. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court held that noncitizens who were convicted of certain serious crimes and who conceded removability could be categorically detained for the brief period necessary for their removal proceedings. This exception is implemented via Section 1226(c), which provides for mandatory detention for noncitizens who have committed certain serious criminal offenses (or are involved in terrorism).

30. The statutory scheme under Section 1226 changed on January 29, 2025, when the President signed the Laken Riley Act (the "LRA").

31. The LRA purports to expand Section 1226(c) by adding a new subsection (c)(1)(E) that imposes mandatory detention on certain noncitizens, including those who have not been convicted of any crime. Rather, the new subsection (c)(1)(E) requires detention for certain noncitizens who are merely "charged with" or "arrested for" certain crimes, including alleged theft crimes such as shoplifting.

32. On its face, the new subsection 1226(c)(1)(E) requires detention without any individualized process, even if the person is not a flight risk and is not dangerous. The new subsection appears to require detention even if the charge is still pending, was ultimately dismissed,

or resulted in an acquittal. The new subsection appears to require detention if the noncitizen has never been adjudicated guilty of any crime. Indeed, the new subsection appears to mandate detention even when the noncitizen was arrested but has not actually been charged with any crime.

33. Neither the Supreme Court nor the Ninth Circuit has ever recognized an exception to the baseline Due Process requirement for a bond hearing where the noncitizen has not been convicted of a criminal offense. For good reason. No person in the United States may be subjected to prolonged civil detention, without a hearing, based solely on unproven accusations.

34. Paz-Vasquez has been detained for over six months.

35. Paz-Vasquez's continued detention in prison-like conditions is unduly harsh. Such punitive detention in the civil context amounts to a violation of substantive due process and requires Paz-Vasquez's immediate release.

36. Here, the duration of Paz-Vasquez's detention is excessive in relation to the government's detention purpose. Indeed, the liberty interest of a person subjected to prolonged civil confinement eventually becomes dispositive, such that no degree of government interest, however legitimate, can outweigh it. *See Torres*, 995 F.3d at 709–10 (noting government conceded that "at some point, regardless of the risks . . . due process will require that [a person subject to prolonged civil confinement] be released").

37. Because Paz-Vasquez's continued detention violates substantive due process, this Court should grant the writ and order his release.

38. Respondents cannot justify Paz-Vasquez's continued detention as consistent with the purposes of immigration detention. His detention has become punitive and unreasonable prolonged, exceeding the constitutional limits on civil immigration detention. Accordingly, Paz-Vasquez's detention violates the guarantees of substantive due process.

II. Paz-Vasquez's continued detention violates procedural due process, warranting review by a neutral arbiter where DHS must present clear and convincing evidence justifying his continued detention.

39. While Paz-Vasquez maintains that his detention violates substantive due process and warrants release on that ground, he can also establish a violation of his right to procedural due

process.

40. To guard against arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690

41. Where the government detains a noncitizen for a prolonged period while the noncitizen pursues a substantial defense to removal, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. 510, 513 (2003) (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); *cf. Jackson*, 406 U.S. at 733 (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249–50 (1972) (noting that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685–86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

42. The recognition that six months constitutes a substantial period of confinement that qualifies as prolonged detention is deeply rooted in our legal tradition. With only a few exceptions, "in the late 18th century in America crimes triable without a jury were for the most part punishable by no more than a six-month prison term." *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968).

43. Consistent with this tradition, the Supreme Court has found six months to be the limit of confinement for a criminal offense that a federal court may impose without the protection afforded by a jury trial. *Cheff v. Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six months as a benchmark in other contexts involving civil detention. *See McNeil*, 407 U.S. at 249, 250–52 (recognizing six months as an outer limit for confinement without individualized inquiry for civil commitment).

44. The Ninth Circuit in *Diaz v. Garland*, 53 F.4th 1189 (2022), reaffirmed that detention becomes prolonged after six months, significantly increasing the individual's liberty

interest. See also *Prieto-Romero v. Clark*, 534 F.3d 1053 (2008) (providing same).

45. Courts in this circuit regularly issue writs of habeas corpus releasing immigrants whose ongoing custody violates the Constitution when the government cannot justify their prolonged detention. *See, e.g., Marroquin v. Chestnut*, No. 1:25-cv-01798-EPG-HC, 2026 LX 108380 (E.D. Cal. Mar. 6, 2026) (holding lawful permanent resident petitioner who was found removable as aggravated felon and denied asylum applications is entitled to a bond hearing while his removal case remains on appeal with a stay of removal); *Van Dan v. Warden of Golden State Annex*, No. 1:26-cv-00629 DJC SCR, 2026 LX 196831, at *15 (E.D. Cal. Mar. 6, 2026) (granting habeas where there is no clear timeline of detention since case must go through multiple levels of review—IJ, and potentially BIA and the Ninth Circuit if appealed); *Chen v. Aitken*, 917 F. Supp. 2d 1013, 1018 (N.D. Cal. 2013) (holding petitioner's seven-month detention under § 1225(b) was "prolonged" because it lasted well beyond the typical period described in *Demore.*).

46. Absent intervention by this Court, Paz-Vasquez's detention is likely to continue for an indeterminate period since there is no defined timeline for the adjudication of his pending BIA appeal.

47. Paz-Vasquez's detention without review by a neutral arbiter violates procedural due process. To cure this violation, the Court should alternatively order Respondents to provide Paz-Vasquez with a bond hearing at which DHS bears the burden of justifying Paz-Vasquez' detention by clear and convincing evidence.

CLAIMS FOR RELIEF

COUNT I
Violation of Due Process under Fifth Amendment of U.S. Constitution: Substantive Due Process Violation

48. Paz-Vasquez realleges and incorporates by reference the paragraphs above.

49. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

50. Due process also prohibits Respondents from punishing people through civil detention. Civil detention becomes punitive when its nature or duration is unreasonable relative to

the purpose for which the individual is detained—in this case, effectuating removal and safeguarding the community.

51. When a civil restriction is excessive in relation to a governmental interest, punitive detention violates the person's right to substantive due process.

52. Paz-Vasquez's detention is excessive in duration —in relation to the government's interest in continuing to detain him.

53. For these reasons, Paz-Vasquez's unjustified and prolonged detention violates substantive due process.

54. Accordingly, the Court should order Paz-Vasquez's immediate release.

COUNT II

Violation of Due Process under Fifth Amendment of U.S. Constitution: Procedural Due Process Violation

55. Paz-Vasquez re-alleges and incorporates by reference the paragraphs above.

56. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

57. Paz-Vasquez's detention has become prolonged. He's been detained for six months and faces additional months of continued detention without receiving a hearing before a neutral decisionmaker as to whether his continued detention is justified.

58. For these reasons, Paz-Vasquez's detention violates procedural due process. Accordingly, the Due Process Clause requires Respondents to establish, at an individualized hearing before a neutral decision maker, that Paz-Vasquez's prolonged detention is justified by clear and convincing evidence of flight risk or danger.

59. As such, the Court should order that Respondents must afford Paz-Vasquez a bond hearing within seven days at which Respondents bear the burden of justifying Paz-Vasquez's detention by clear and convincing evidence.

PRAYER FOR RELIEF

WHEREFORE, Paz-Vasquez prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Grant a writ of habeas corpus and order Respondents to immediately release Paz-Vasquez;

c. Alternatively, grant a writ of habeas corpus and order Respondents to schedule a bond hearing before a neutral decisionmaker within seven days at which DHS bears the burden of justifying detention by clear and convincing evidence;

d. Enjoin Respondents from transferring Paz-Vasquez without his consent outside of this judicial district pending litigation of this matter;

e. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief as the Court deems just and proper.

Dated: April 22, 2026

Respectfully submitted,

/s/ Luciana Galarza

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

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

Executed on this 22nd day of April, 2026, in Phoenix, Arizona.

/s/ Luciana Galarza

Counsel for Petitioner

CERTIFICATE OF SERVICE

I, Luciana Galarza, certify that on April 22, 2026, I served via certified U.S. Mail, return receipt requested, the foregoing Petition, on each person/entity listed below addressed as follows:

Todd Blanche
Attorney General of the United States
U.S. Department of Justice
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Markwayne Mullin,
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Served via ECF the attached Petition:
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I declare under penalty of perjury that the foregoing is true and correct. Executed on 22nd day of April, 2026, at Phoenix, Arizona.

s/ Luciana Galarza