

1 **Gabriel G. Leyba, Esq.**
2 **Crossroads Law Group PLLC**
3 **3200 N. Central Avenue, STE 1180**
4 **Phoenix, Arizona 85012**
5 **AZ Bar No. 026911**
6 **602-235-0279 facsimile**
7 **ggleyba@gmail.com**
8 **602-235-0111 voice**

9 **Mariana L. Hanna**
10 **Law Offices of Mairana L. Hanna**
11 **402 W. Broadway, Suite 1730**
12 **San Diego, California 92101**
13 **mlhlawoffice@yahoo.com**
14 **619-234-3635**

15 **UNITED STATES DISTRICT COURT**
16 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
17 **SAN DIEGO, CALIFORNIA**

18 Jose Maria Valenzuela-Lara;

19 Petitioner,

20 v.

21 Markwayne Mullin, Secretary, U.S.
22 Department of Homeland Security;
23 Todd M. Lyons, Director,
24 Immigration and Customs
25 Enforcement (ICE); Patrick Divver,
26 Field Office Director, ICE
27 Enforcement and Removal
28 Operations, San Diego;
Jeremy Casey, Warden, Imperial
Regional Detention Facility,

Respondents.

Case No. '26CV2570 JAO DDL

Immigration Number: 

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

I. INTRODUCTION

1. Petitioner Jose Maria Valenzuela-Lara  by and through undersigned counsel, respectfully requests this Honorable Court grant the Writ of Habeas Corpus and order the Petitioner immediately released. On September 10, 2014, Executive Office for Immigration Review, Immigration Court in Eloy, Arizona, ordered the Petitioner released from ICE custody on a \$4,000 bond. Petitioner paid

1 the bond, was released from custody, his removal proceedings were moved to the
2 Phoenix Immigration Court where they remain pending. In 2016, Defendant DHS
3 unilaterally returned the bond money and allowed Petitioner to remain free. On or
4 about March 29, 2026, Customs and Border Protection (“CBP”) took Petitioner into
5 custody at a highway checkpoint and Petitioner remains in currently in DHS custody
6 at the Imperial Regional Detention Facility. Respondents violated Petitioner’s fifth
7 amendment right to due process by detaining Petitioner without providing notice of
8 intent to change custody condition and an opportunity to respond in a pre-deprivation
9 hearing before a neutral decision maker. Petitioner abided by the terms of his release.
10 Respondents do not have the facts or authority to alter Petitioner’s release conditions
11 absent a fair process to establish changed circumstances. Petitioner requests this Court
12 order Petitioner’s immediate release under the same conditions that existed prior to his
13 re-detention.

14 2. Petitioner is a 50-year-old married male, citizen of Mexico, who has
15 continuously lived in the United States since 2001. On August 11, 2014, CBP
16 encountered Petitioner and he was placed into removal proceedings. After his release
17 upon payment of the bond, Petitioner’s removal proceeding were moved to the
18 Phoenix Immigration Court where on January 23, 2015 he filed an application for
19 cancellation of removal under 8 U.S.C. § 1229b(b)(1) and the proceedings were
20 subsequently administratively closed. The proceedings remain with the Phoenix
21 Immigration Court and Petitioner maintained a valid employment authorization
22 document (“EAD”). After his release from ICE custody, Petitioner attended all
23 scheduled hearings with the Immigration Courts and has not been arrested for or
24 accused of any criminal activity.

25 3. Respondents violated Petitioner’s fifth amendment rights to substantive
26 and procedural due process. Respondents detained Petitioner without cause and
27 without process to establish changed circumstances. Respondents failed to provide
28 Petitioner with any notice of breach of bond/release conditions or an opportunity to

1 respond. Respondents' actions are in violation of the Administrative Procedures Act
2 ("APA"), 5 U.S.C. § 706, because his detention is arbitrary, capricious, and not in
3 accordance with law and regulation.

4 4. Petitioner will suffer irreparable and immediate injury from continued
5 unlawful detention unless the Petition for Writ of Habeas Corpus under 28 U.S.C. §
6 2241 is granted. The Court should order Petitioner's immediate release and for
7 Respondents to return to him his EAD and any State issued identity documents.

8 **II. JURISDICTION**

9 5. This Court has jurisdiction over petitions for Habeas Corpus pursuant to
10 28 U.S.C. § 2241. The Petitioner is in the custody of the United States.

11 6. This Court has jurisdiction over civil actions brought under 28 U.S.C. §
12 1331 because this action arises under the Constitution and laws of the United States.
13 This Court has jurisdiction pursuant to 28 U.S.C. § 1361 which authorizes actions in
14 district court, "to compel an officer or employee of the United States or agency thereof
15 to perform a duty owed to the Petitioner."

16 7. The aid of the Court is invoked under 28 U.S.C. §§ 2201 and 2202,
17 authorizing a declaratory judgement.

18 8. This Court has jurisdiction pursuant to the Administrative Procedures Act
19 (APA), 5 U.S.C. § 706 to set aside agency action not in accordance with law and order
20 the agency to perform a duty owed to Petitioner.

21 **III. VENUE**

22 9. Venue is asserted pursuant to 28 U.S.C. § 1391(e) because the Petitioner
23 is being detained in Calexico, California, Respondents are the U.S. Government, and
24 no real property is involved in the action.

25 **IV. EXHAUSTION**

26 10. Exhaustion is a prudential rather than a jurisdictional requirement. *Singh*
27 *v. Holder*, 638 F.3d 1196, 1203 n. 3 (9th Cir. 2011). Waiver of exhaustion is
28 appropriate "where administrative remedies are inadequate or not efficacious, pursuit

1 of administrative remedies would be a futile gesture, irreparable injury will result, or
2 the administrative proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000
3 (9th Cir. 2004) (citation and quotation marks omitted).

4 11. In the instant case, the Immigration Judge already determined the Plaintiff
5 to not be a danger or flight risk ordering his release on a \$4,000 bond. Petitioner
6 complied with the terms and conditions of the Immigration Court’s order.
7 Respondents did not have the authority to redetermine his release conditions and they
8 provided no process or opportunity to substantiate his detention.

9 **V. PARTIES**

10 12. Petitioner, Jose Maria Valenzuela-Lara, is a native and citizen of Mexico,
11 and is currently detained by ICE at the Imperial Regional Detention Facility in
12 Calexico, California.

13 13. Defendant Markwayne Mullin is the Secretary of the Department of
14 Homeland Security (DHS), responsible for overseeing CBP and ICE, the agencies
15 responsible for Petitioner’s arrest and ongoing detention.

16 14. Defendant Todd M. Lyons is the Director of Immigration and Customs
17 Enforcement, the agency currently detaining Petitioner.

18 15. Defendant Patrick Divver, is the Field Office Director of ICE
19 Enforcement and Removal Operations in San Diego, California. This office is
20 responsible for the release of persons detained by ICE at the Imperial Regional
21 Detention Facility

22 16. Defendant Jeremy Casey, is the Warden or “Facility Administrator,”
23 employed by Management & Training Corporation, to oversee the Imperial Regional
24 Detention Facility. Defendant Casey is directly responsible for Petitioner’s physical
25 custody.

26 **VI. FACTUAL ALLEGATIONS**

27 17. Petitioner is a fifty (50) year-old citizen of Mexico who last entered the
28 United States without inspection on or about July 18, 2012. He has continuously

1 resided in the United States since 2001, is married, and has three U.S. citizen children
2 ages 17, 15, and eight.

3 18. On or about August 11, 2014, following a dispute between Petitioner and
4 his neighbor, Yuma County Sheriff's Office encountered Petitioner and called CBP
5 who took Petitioner into custody.

6 19. Following Petitioner's arrest, ICE then filed a Notice to Appear, placing
7 him into removal proceedings before the Eloy Immigration Court, in Eloy, Arizona,
8 and charging him as inadmissible under 8 U.S.C. § 212(a)(6)(A)(i). ICE made an
9 initial custody determination setting Petitioner's bond at \$12,500. *See* 8 C.F.R. §§
10 1236.1

11 20. Petitioner requested a bond redetermination. Pursuant to 8 C.F.R. §
12 1236.1(d)(1), on September 10, 2014, the Eloy Immigration Court conducted a bond
13 redetermination hearing where the Immigration Judge found Petitioner to not be a
14 danger nor a flight risk, reducing the bond to \$4,000. All parties waived appeal rights.
15 *See* Exhibit A.

16 21. Petitioner posted the \$4,000 and ICE released him from custody. On
17 September 15, 2014, the Immigration Court granted the change of venue to the
18 Phoenix Immigration Court.

19 22. On January 23, 2015, Petitioner filed with the Phoenix Immigration Court
20 a 42B application for cancellation of removal for certain non-permanent residents
21 under 8 U.S.C. § 1229b(b)(1).

22 23. On December 10, 2015, at the master calendar hearing held in the
23 Phoenix Immigration Court, Petitioner entered pleadings and requested administrative
24 closure. On that same date, the Immigration Court ordered the removal proceedings
25 administratively closed. *See* Exhibit B.

26 24. On an unknown date in 2016, Respondents unilaterally returned the bond
27 money but also continued with the status quo of Petitioner's continued freedom while
28 pending removal proceedings.

1 25. On January 28, 2025, U.S. Citizenship and Immigration Services
2 approved Petitioner's employment authorization document valid through January 26,
3 2030. *See* Exhibit C.

4 26. On June 23, 2025, Respondents filed with the Phoenix Immigration Court
5 a motion to recalendar proceedings. On July 2, 2025, Petitioner filed an opposition
6 to the motion to recalendar. On April 16, 2026, the Phoenix Immigration Court
7 granted the motion to recalendar and set a master hearing for July 23, 2026 at 1:00p.m.
8 *See* Exhibit D.

9 27. On or about March 29, 2026, Petitioner encountered a CBP checkpoint
10 while traveling on a highway. He presented his valid EAD. CBP communicated to
11 Petitioner that his EAD had been "revoked" and they took him into custody.

12 28. Regarding Petitioner's most recent EAD, USCIS has not issued any
13 notice of revocation.

14 29. After CBP took Petitioner into custody he was later transferred to the
15 Imperial Regional Detention Facility where he remains detained.

16 30. No pre-deprivation hearing was scheduled or held.

17 32. Respondents did not provide any notice or reason for the change in
18 Petitioner's custody status.

19 **VII. LEGAL AND REGULATORY FRAMEWORK**

20 33. 8 U.S.C. § 1226(a) governs the general detention and release of non-
21 citizens in removal proceedings: "an alien may be arrested and detained pending a
22 decision on whether the alien is to be removed from the United States . . . and (2) may
23 release the alien on- (A) bond of at least \$1500 . . . or (B) conditional parole."

24 34. 8 C.F.R. § 1236.1(d)(1) states in pertinent part:

25 Application to immigration judge. After an initial custody
26 determination by the district director, including the setting
27 of a bond, the respondent may, at any time before an order
28 under 8 CFR part 1240 becomes final, request amelioration
of the conditions under which he or she may be released.
Prior to such final order, and except as otherwise provided
in this chapter, the immigration judge is authorized to

1 exercise the authority in section 236 of the Act . . . to
2 detain the alien in custody, release the alien, and determine
3 the amount of bond, if any, under which the respondent
4 may be released, as provided in § 1003.19 of this chapter.

5 ...

6 35. 8 C.F.R. § 1003.19(a) accords the Immigration Judge power to
7 redetermine the conditions for release imposed by the Respondents.

8 36. In the instant case, ICE first determined Petitioner's release on a bond of
9 \$12,500. Petitioner appealed this determination to the Immigration Judge pursuant to
10 8 C.F.R. § 1236.1(d), and the Immigration Judge ameliorated the conditions, reducing
11 the bond to \$4,000. Pursuant to 8 C.F.R. § 1236.1(d)(3)(i), Respondents could appeal
12 this determination to the Board of Immigration appeals, but the Immigration Judge's
13 order clearly indicates Respondents waived the right to appeal. *See* Exhibit A.

14 37. 8 U.S.C. § 1226(b) provides "The Attorney General at any time may
15 revoke a bond or parole authorized under subsection (a), rearrest the alien under the
16 original warrant, and detain the alien."

17 38. None of 8 U.S.C. § 1226 or 8 C.F.R. §§ 236, 1236, 1003.19 *et. seq.*
18 provide any direct method for ICE or CBP to redetermine a bond set by an
19 Immigration Judge. 8 C.F.R. § 1003.19.

20 39. 8 C.F.R. §§ 103.6(h), 236.1(g) require Respondents to issue a notice to
21 the obligor or Petitioner related to any breach, cancellation, or "other bond notices"
22 regarding a bond. 8 C.F.R. § 103.8 provides the method of service of these notices on
23 "parties" or "attorneys" regarding administrative decisions made by Respondents.

24 40. Pursuant to 8 C.F.R. §§ 1003.19(c), (e), if the Immigration Court's
25 custody redetermination is to be challenged it must be made in the court having
26 administrative control and there should be a showing of a material change in
27 circumstances.

28 41. It is unclear whether Respondents had legal authority to cancel
Petitioner's bond in 2016 if the case was not administratively final. It does
demonstrate Respondents believed Petitioner substantially complied with the terms of

1 his release.

2 42. Although Respondents cancelled the bond, the terms and conditions of
3 release did not change. The Respondents do not have statutory authority to alter the
4 Immigration Judge's 2014 redetermination setting the conditions for release.

5 43. At both the time of bond cancellation and the time of re-detention, the
6 Phoenix Immigration Court held administrative control of the Petitioner's proceedings.
7 At no time did Respondents notify or apply to the Phoenix Immigration Court to
8 change the custody determination made by the Immigration Judge. *See* 8 C.F.R. §§
9 1003.19(c), (e), (g).

10 **VIII. FIFTH AMENDMENT CLAIMS**

11 44. The Fifth Amendment to the U.S. Constitution protects persons from
12 being "deprived of life, liberty, or property, without due process of law. . . ."

13 45. Respondents violate Petitioner's right to substantive due process because
14 no authority allows Respondents to challenge or change the Immigration Court's order
15 without appeal or a showing of changed circumstances. Petitioner has not breached
16 the release conditions and his continued detention is illegal.

17 46. Respondents' interests in the civil detention of Petitioner are not
18 substantiated because during the last 12 years Petitioner has demonstrated he is not a
19 flight risk and not a danger to the community.

20 47. Petitioner accrued a liberty interest after maintaining 12 years of freedom
21 during the pendency of his removal proceedings. The administrative closure along
22 with a valid EAD established the *status quo* that if Petitioner attended hearings,
23 followed court orders, and did not violate any laws, he would continue to enjoy this
24 freedom. Petitioner also accrued a liberty interest in relying upon the 2014
25 Immigration Court's order allowing him to be released upon the posting of a bond.

26 48. Petitioner's liberty interests were reinforced in 2016 when Respondents
27 cancelled the bond and allowed Petitioner's continued freedom from detention during
28 the pendency of removal proceedings.

1 49. Respondents violated Petitioner's right to procedural due process by not
2 providing notice of an intent to change his custody status. Respondents did not notify
3 or petition the Immigration Court to change the released conditions ordered in 2014.
4 Respondents have not alleged changed circumstances to substantiate re-detention and
5 they have not provided Petitioner an opportunity to respond before a neutral decision
6 maker.

7 50. Respondents did not notify or provide reasons to Petitioner as to any
8 intent to change the arrangements of their decision of continued release after the 2016
9 cancellation of the bond.

10 51. Respondents did not request, provide, or allow any independent review
11 by a neutral arbitrator of whether the re-detention is necessary.

12 **IX. ARBITRARY AND CAPRICIOUS AGENCY ACTION**

13 52. APA 5 U.S.C. § 706(2), provides the Court authority to "hold unlawful
14 and set aside agency action . . . to be—(A) arbitrary, capricious, an abuse of discretion,
15 or otherwise not in accordance with law."

16 53. Petitioner's detention is arbitrary and capricious considering DHS
17 initiated the action to cancel his bond while he remained free pending removal
18 proceedings. Without the Petitioner breaching the bond, there is no lawful authority
19 for DHS to cancel the bond prior to the conclusion of proceedings. To detain
20 Petitioner and require he request another bond is arbitrary and capricious considering
21 the possibility DHS may unilaterally cancel the bond again. This creates a loop of
22 detention and release without any demonstrated reason related to danger or flight risk.

23 **VIII. CLAIMS FOR RELIEF**

24 54. Petitioner realleges paragraphs 1 through 53 herein as fully set forth, and
25 Petitioner's continued detention is a violation the Fifth Amendment, U.S. Constitution
26 and not in accordance with the INA.

27 55. Pursuant to the APA, the Respondents unilateral changes in release
28 conditions are arbitrary and capricious.

1 56. This Court has jurisdiction to review the Respondents' action and order
2 Petitioner to be immediately released and his EAD returned to him.

3 57. Petitioner is eligible for payment of attorney's fees, related expenses, and
4 costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

5 **IX. PRAYER FOR RELIEF**

6 WHEREFORE, Petitioner prays that the Court grant the following relief:

- 7 (1) Assume jurisdiction over this cause pursuant to 28 U.S.C. § 2241;
8 (2) Restrain Respondents from moving Petitioner out of the judicial district;
9 (3) That the Court grant the petition for habeas corpus and order Respondents
10 immediately release Petitioner
11 (4) Declare Petitioner's continued detention to be in violation of the Immigration
12 and Nationality Act;
13 (5) Order Respondents prior to any re-detention, to provide Petitioner a hearing
14 before a neutral decision maker where they must demonstrate a material change
15 in circumstances, providing Petitioner a reasonable opportunity to respond;
16 (6) That the Court order payment of Petitioner's attorney's fees and costs pursuant
17 to EAJA;
18 (7) That the Court grant further relief as this Court deems proper under the
19 circumstances.

20 RESPECTFULLY SUBMITTED, this day 23rd day of April, 2026,

21
22 Law Offices of Mariana L. Hanna

23 s/ Mariana L. Hanna, Esq.

24 Mariana L. Hanna
25 Attorney for Petitioner
26
27
28

CROSSROADS LAW GROUP PLLC

s/ Gabriel G. Leyba, Esq.

Gabriel G. Leyba, Pro Hac Vice
Attorney for Petitioner