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**UNITED STATES DISTRICT COURT**
**DISTRICT OF ARIZONA**

**Juan Carlos Taboada-Hernandez,**
**Petitioner,**

v.

**Markwayne Mullin**, Secretary of the United States Department of Homeland Security, in his official capacity; **Sirce Owen**, Acting Director of Executive Office for Immigration Review, in her official capacity; Luis Rosa Jr., Warden of the Florence Correctional Center in his official capacity,

**Respondents.**

**Case No.**

**Agency No.** [redacted]

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

## INTRODUCTION

1. Petitioner challenges the legality of his civil immigration detention. He has lived in the United States for years following entry without inspection, was not apprehended upon arrival, and has no criminal history that would subject him to mandatory detention. *See* Declaration of Counsel, Ex. 1. Nevertheless, he is currently detained without a lawful statutory basis and without the individualized process required by the Constitution.

2. This is not a case about entitlement to a bond hearing. This is a case about detention that lacks a lawful statutory basis and has been imposed without constitutionally required process.

Because Petitioner's detention exceeds the Government's statutory authority and violates the Fifth Amendment, this Court should order his immediate release.[1]

## JURISDICTION & CUSTODY

1. Petitioner Juan Carlos Taboada-Hernandez, is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security.

2. Petitioner is currently detained at Florence Correctional Center and is under the direct control of Respondents and their agents.

3. This action arises under the Constitution of the United States and 8 U.S.C. § 1101 et seq.

4. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and the common law. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

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[1] See, e.g., *Order Granting Petition for Writ of Habeas Corpus* at 9–11, *Singh v. Valdez*, No. 1:26-cv-01109-WJM (D. Colo. Apr. 1, 2026) (attached as Ex. 2) (concluding that a bond hearing "cannot cure" unlawful detention and ordering immediate release) ; *Order* at 2–4, *Jimenez Chauca v. Mullin*, No. 1:26-cv-00864-GPG (D. Colo. Apr. 9, 2026) (attached as Ex. 3) (finding noncompliance with a prior habeas order because the IJ failed to apply the correct burden and ordering immediate release) ; *Order Granting Habeas Corpus Petition* at 9–11, *Quiroz Zacarias v. Mullin*, No. 1:26-cv-00574-WJM (D. Colo. Apr. 22, 2026) (attached as Ex. 4) (rejecting conclusory and post hoc bond determinations as constitutionally deficient and ordering immediate release) ; *Order Granting Habeas Corpus Petition* at 8–9, *Hernandez v. Baltazar*, No. 1:26-cv-00524-WJM (D. Colo. Feb. 24, 2026) (attached as Ex. 5) (warning that where the Government fails to comply with bond-hearing orders, immediate release is the appropriate remedy) .

5. Congress has preserved judicial review of challenges to immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 122, 130-131 (2018) (holding that 8 U.S.C. §§ 1226(e) and 1252(b)(9) do not bar review of challenges to prolonged immigration detention).

6. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a response "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

7. The Court has inherent power to release the petitioner pending review of his petition. *See Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986).

**VENUE**

8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in this Court, the federal judicial district in which Petitioner is currently is in custody.

9. Venue is also properly in this Court pursuant to 18 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States.

**PARTIES**

10. Petitioner Juan Carlos Taboada-Hernandez was born on [redacted] in Magdalena de las Salinas, Mexico. Petitioner is currently detained by ICE at Florence Correctional Center. *See*, ICE Online Detainee Locator, Ex. 6.

11. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Mullin is a legal custodian of Petitioner. Respondent Mullin is sued in his official capacity.

12. Respondent Luis Rosa Jr. is the Warden of the Florence Correctional Center. Respondent Luis Rosa Jr. is a legal custodian of Petitioner. Respondent Luis Rosa Jr. is sued in his official capacity.

13. Respondent Sirce Owen is the Acting Director of the Executive Office for Immigration Review (EOIR), a federal agency within the U.S. Department of Justice. Respondent EOIR is responsible for the administration of immigration courts, and acceptance of forms and petitions related to adjudication of immigration claims, as well as motions for bond. Respondent Sirce Owen is sued in her official capacity.

**STATEMENT OF FACTS**

14. Petitioner is a native and citizen of Mexico born on [redacted]. Petitioner has resided in the United States since December 1990, establishing substantial family and community ties. *See* Declaration of Counsel, Ex. 1.

15. Petitioner Juan Carlos Taboada-Hernandez first entered the United States as a child in December 1990. *Id.* In 2008, he was placed in removal proceedings, granted voluntary departure, and departed the United States in October 2008. *Id.* He re-entered shortly thereafter and has remained continuously present in the United States since that time, establishing substantial ties during more than seventeen years of residence.

16. On August 9, 2021, following an arrest by local law enforcement in Arizona, Petitioner was transferred to ICE custody and taken into ICE custody, after which DHS initiated removal proceedings against him. *See* Declaration for Counsel, Ex. 1; Notice to Appar, Ex. 7.

17. On March 10, 2026, an Immigration Judge ordered Petitioner removed to Mexico after denying his applications for relief. Petitioner timely appealed that decision to the

Board of Immigration Appeals, where his appeal remains pending. *See* Filing Receipt for Appeal, Ex. 8.

18. Petitioner's criminal history does not subject him to mandatory detention under the immigration laws, including INA § 236(c), 8 U.S.C. § 1226(c), which applies only to specified categories of criminal offenses enumerated by Congress. Accordingly, no statutory basis exists to subject Petitioner to mandatory detention.

19. Petitioner's record includes two non-violent DUI-related matters and older convictions from 2002 and 2005 for domestic violence and disorderly conduct. *See* Declaration of Counsel, Ex. 1.

20. Petitioner was later taken into custody by Immigration and Customs Enforcement. At no time has the Government identified any statutory basis for mandatory detention or made any individualized determination justifying his custody.

21. Petitioner remains detained without any lawful statutory basis or individualized determination that would justify the deprivation of his liberty.

**LEGAL FRAMEWORK**

22. Civil immigration detention is governed by specific statutory provisions.

23. Mandatory detention under INA § 236(c), 8 U.S.C. § 1226(c), applies only to noncitizens with qualifying criminal convictions.

24. Mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b), applies to individuals properly treated as applicants for admission.

25. Where neither provision applies, detention falls under INA § 236(a), 8 U.S.C. § 1226(a), which authorizes discretionary detention subject to individualized determination.

## CLAIMS FOR RELIEF

### Claim One
### Detention Exceeds Statutory Authority

26. Petitioner realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

27. Petitioner's detention is not authorized under any applicable provision of the Immigration and Nationality Act.

28. He is not subject to mandatory detention under INA § 236(c), 8 U.S.C. § 1226(c), because he has no qualifying criminal convictions.

29. Respondents have improperly classified Petitioner as an "applicant for admission" subject to 8 U.S.C. § 1225(b), a position that is inconsistent with the statutory text and governing law. Individuals who have lived in the United States for a significant period are not "seeking admission" within the meaning of § 1225(b), but are instead present in the United States and seeking to remain. Federal courts are not bound by agency interpretations of the Immigration and Nationality Act and must independently interpret the statute. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024). Courts—including within the District of Arizona—have rejected the Government's expansive interpretation and have instead concluded that noncitizens already present in the United States are not "seeking admission" within the meaning of § 1225(b). See, e.g., *Echevarria v. Bondi*, No. CV-25-03252-PHX (D. Ariz. Oct. 3, 2025).

30. This issue is also the subject of ongoing habeas litigation within the District of Arizona, where petitioners have challenged detention under § 1225(b) and sought relief without application of the Government's current interpretation. See, e.g., *Godinez-Juarez v. Noem*, No. 2:25-cv-04409 (D. Ariz. 2025); *Lanza-David v. Noem*, No. 2:26-cv-01585 (D. Ariz. 2026); *Yin v. Mullin*, No. 2:26-cv-02465 (D. Ariz. 2026).

31. Because Petitioner is not an applicant for admission within the meaning of § 1225(b), detention under that provision is unlawful.[2]

32. Even if § 1226(a) applies, that provision authorizes only discretionary detention based on individualized determinations. No such determination has been made here.

33. Detention imposed outside the statutory framework exceeds the Government's authority and is unlawful.

**Claim Two**
**Violation of the Accardi Doctrine**

34. Petitioner realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

35. Respondents' unlawful classification of Petitioner as subject to 8 U.S.C. § 1225(b) also violates the Accardi doctrine, which requires federal agencies to follow their own regulations and governing procedures. See United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 266–68 (1954).

36. The regulatory framework governing immigration detention distinguishes between individuals encountered at the threshold of entry and those apprehended within the

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[2] The interpretation adopted in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), is not controlling on this Court and is inconsistent with the statutory framework. Following *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), courts must exercise independent judgment in interpreting the Immigration and Nationality Act. The text of 8 U.S.C. § 1225(b)(2)(A) applies to individuals "seeking admission," a term that, in context, refers to those at the threshold of entry—not individuals who have been living within the United States for an extended period. See 8 U.S.C. § 1101(a)(13)(A); 8 C.F.R. § 1.2; 8 C.F.R. § 235.3(c)(1). Interpreting § 1225(b) to apply to all persons present without admission would collapse the statutory distinction between § 1225 and § 1226 and render the discretionary detention framework largely superfluous. See *Clark v. Martinez*, 543 U.S. 371, 378 (2005). Courts addressing this issue have accordingly declined to extend § 1225(b) to long-present noncitizens apprehended in the interior. See *Echevarria v. Bondi*, No. CV-25-03252-PHX (D. Ariz. Oct. 3, 2025); see also *Singh v. Valdez*, No. 1:26-cv-01109-WJM (D. Colo. Apr. 1, 2026).

United States, and assigns different detention authorities accordingly. See 8 C.F.R. §§ 1.2, 235.3, 236.1. These regulations are not discretionary; they define the circumstances under which each detention authority may be exercised.

37. Petitioner was arrested within the United States after residing here for a significant period. Under the governing regulations, such circumstances do not fall within the framework applicable to "arriving aliens," but instead implicate the discretionary detention scheme set forth in 8 U.S.C. § 1226(a). By classifying Petitioner as subject to § 1225(b) without applying the regulatory criteria that define and limit that authority, Respondents failed to follow the controlling regulatory structure.

38. This failure directly affects the legality of detention. Where an agency bypasses the regulatory framework that determines which statutory authority applies, it acts outside the bounds of its own rules. Under Accardi, such a deviation renders the resulting detention unlawful.

**Claim Three**
**Violation of Administrative Procedure Act**

39. Petitioner realleges all paragraphs above as if fully set forth here.

40. Respondents' detention of Petitioner also violates the Administrative Procedure Act. Agency action must be set aside if it is contrary to law, arbitrary, or capricious. 5 U.S.C. § 706(2)(A).

41. First, the detention is contrary to law because it rests on an inapplicable statutory provision. As set forth above, § 1225(b) does not govern the detention of individuals already present in the United States. By exercising detention authority under that provision, Respondents have acted beyond the scope of their statutory authority.

42. Second, the detention is arbitrary and capricious because Respondents have not articulated any reasoned basis for applying § 1225(b) to Petitioner. There is no indication that Respondents considered the statutory text, applied the governing regulatory framework, or made any individualized determination regarding Petitioner's custody. The absence of any explanation reflects a decision that is not the product of reasoned decision-making.

43. Third, the detention reflects an impermissible categorical application of authority. Treating individuals who entered without inspection as automatically subject to § 1225(b), without regard to their presence in the United States or individual circumstances, amounts to a de facto policy that departs from the statutory scheme without explanation. Such unexplained departures from governing law are precisely the type of agency action the APA prohibits.

44. Because Respondents' detention decision is contrary to law, unsupported by reasoned analysis, and reflects an unreasoned categorical approach, it must be set aside under the Administrative Procedure Act.

**Count Four**
**Violation of Procedural Due Process**

45. Petitioner realleges all paragraphs above as if fully set forth here.

46. The Fifth Amendment prohibits deprivation of liberty without due process of law.

47. Petitioner has been detained without any individualized determination, without any hearing, and without any meaningful opportunity to be heard.

48. Under Mathews v. Eldridge, 424 U.S. 319, 335 (1976), due process requires procedures sufficient to prevent erroneous deprivation of liberty. Those procedures have not been provided.

**Claim Five**
**Violation of Substantive Due Process**

49. Petitioner realleges all paragraphs above as if fully set forth here.

50. The defects in Respondents' statutory and administrative decision-making also render Petitioner's detention arbitrary in violation of substantive due process. The Fifth Amendment permits civil immigration detention only where it bears a reasonable relationship to a legitimate governmental purpose, such as preventing flight or protecting the community. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 528 (2003).

51. Here, Respondents have not made any individualized determination that Petitioner poses a flight risk or danger to the community. Detention has instead been imposed based solely on a categorical classification that does not apply to Petitioner under the statute.

52. Because Petitioner's detention is not supported by any legitimate governmental objective and is instead the product of an unlawful and categorical classification, it violates substantive due process.

**Claim Six**

**Any Custody Determination Must Satisfy Constitutional Due Process Under Mathews v. Eldridge**

53. Even if this Court were to conclude that Petitioner's detention falls within 8 U.S.C. § 1226(a), any custody determination must satisfy constitutional due process requirements.

54. Under Mathews v. Eldridge, the Court must balance the private interest affected, the risk of erroneous deprivation, and the Government's interest.

55. Petitioner's liberty interest is fundamental. The risk of erroneous deprivation under existing procedures is substantial, particularly where the burden is placed on the detained individual and decisions may be issued without meaningful explanation.

56. Due process therefore requires that the Government bear the burden of justifying continued detention and that any decision be supported by individualized findings.

**BOND IS NOT AN ADEQUATE REMEDY**

57. Respondents may argue that any defect can be cured through a bond hearing. That argument fails.

58. A bond hearing presupposes lawful detention. Where detention itself is unlawful, a bond hearing does not cure the violation—it attempts to justify it after the fact.

59. Recent federal decisions have recognized that such proceedings do not reliably provide constitutionally adequate safeguards, including where decisions are issued without meaningful explanation or where the burden of proof is misapplied. *See Singh v. Valdez*, No. 1:26-cv-01109-WJM (D. Colo. Apr. 1, 2026); *Jimenez Chauca v. Mullin*, No. 1:26-cv-00864-GPG (D. Colo. Apr. 9, 2026).

60. Because a bond hearing may fail to cure the violation, the appropriate remedy is immediate release.

**CONCLUSION**

61. Petitioner is detained without a lawful statutory basis and without constitutionally required process.

62. Where detention is not authorized by law and available procedures fail to ensure meaningful review, continued detention cannot be sustained.

## PRAYER FOR RELIEF

**WHEREFORE** Petitioner Juan Carlos Taboada-Hernandez respectfully requests that the Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Grant the Petition for Writ of Habeas Corpus;
3. Declare that Petitioner's detention is unlawful;
4. Order Respondents to immediately release Petition from custody; or in the alternative,
5. Order a bond hearing conducted in compliance with the Due Process Clause, including;
   a. placing the burden on the government;
   b. requiring proof by clear and convincing evidence; and
   c. requiring a reasoned, individualized decision;
   d. grant such other relief as the Court deems just and proper.

Dated this 23rd day of April, 2026.

By: */s/ Erica Sanchez*
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## VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner Juan Carlos Taboada-Hernandez and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 23rd day of April, 2026.

By: */s/* Erica Sanchez
Erica Sanchez, Esq.

| LIST OF EXHIBITS | |
|---|---|
| Exhibit 1 | Declaration of Counsel in Support of Petition for Writ of Habeas Corpus |
| Exhibit 2 | Order Granting Petition for Writ of Habeas Corpus, *Singh v. Valdez*, No. 1:26-cv-01109-WJM (D. Colo. Apr. 1, 2026) |
| Exhibit 3 | Order *Jimenez Chauca v. Mullin*, No. 1:26-cv-00864-GPG (D. Colo. Apr. 9, 2026) |
| Exhibit 4 | *Order Granting Habeas Corpus Petition*, *Quiroz Zacarias v. Mullin*, No. 1:26-cv-00574-WJM (D. Colo. Apr. 22, 2026) |
| Exhibit 5 | Order Granting Habeas Corpus Petition, *Hernandez v. Baltazar*, No. 1:26-cv-00524-WJM (D. Colo. Feb. 24, 2026) |
| Exhibit 6 | ICE Online Detainee Locator |
| Exhibit 7 | Notice to Appear |
| Exhibit 8 | Filng Receipt for Appeal or Motion |

## CERTIFICATE OF SERVICE

I, Erica Sanchez, hereby certify that on April 23, 2026, I electronically filed the foregoing document and its Exhibits with the Clerk of the Court using the CM/ECF system. I further certify that all participants are registered CM/ECF users and that service will be accomplished by the CM/ECF system. I also certify that a copy of the foregoing, together with the Clerk-issued summons, will be served upon Respondents at their respective offices via U.S. Certified Mail.

By: */s/ Erica Sanchez*
Erica Sanchez, Esq.