

1 DANIEL S. CASTANEDA, ESQ. (SBN276762)
2 EOIR ID: AT547914
3 3065 Rosecrans Place, Suite 204
4 San Diego, CA 92110
5 Tel:(619)710-6095
6 Fax:(619)5664128
7 daniel@castalegal.com

8 Counsel for Petitioner
9 Andrea Martinez Sanchez

10
11 **UNITED STATES DISTRICT COURT**
12
13 **SOUTHERN DISTRICT OF CALIFORNIA**
14

15 ANDREA MARTINEZ SANCHEZ,

16
17 Petitioner,

18
19 v.

20 MARKWAYNE MULLIN, Secretary, U.S.
21 Department of Homeland Security; Pamela BONDI,
22 U.S. Attorney General; Todd LYONS, Acting
23 Director, Immigration and Customs Enforcement;
24 JOSEPH FREDEN, Acting Field Office Director,
25 U.S. Immigration & Customs Enforcement (ICE),
26 CHRISTOPHER J. LAROSE, Senior Warden Otay
27 Mesa Detention Facility; EXECUTIVE OFFICE
28 FOR IMMIGRATION REVIEW; IMMIGRATION
AND CUSTOMS ENFORCEMENT; and U.S.
DEPARTMENT OF HOMELAND SECURITY,

Respondents.

Case No. **'26CV2879 CAB BJW**

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241; VERIFIED
PETITION**

PETITIONER'S A NO. 

I. INTRODUCTION

1. Petitioner Andrea Martinez Sanchez respectfully challenges her ongoing civil immigration detention by the Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”) at the Otay Mesa Detention Center in San Diego County, California.
2. Petitioner entered the United States without inspection in 2002 and has resided in this country for approximately twenty-four years.
3. Petitioner previously had Deferred Action for Childhood Arrivals (“DACA”) and lived in the community for years before the detention challenged here.
4. Petitioner has one misdemeanor battery conviction from 2021 and a 2021 DUI case. She completed all terms of probation imposed in connection with those matters.
5. Petitioner is single and has no children.
6. Petitioner has a boyfriend in the United States.
7. Petitioner’s parents live in the United States but do not have lawful immigration status.
8. Petitioner also has two siblings in the United States, [REDACTED] who have resided in the United States for approximately twenty years.
9. On April 27, 2026, ICE arrested Petitioner without prior notice and placed her in immigration detention.
10. Petitioner is now detained at the Otay Mesa Detention Center within the Southern District of California.

1 11. Petitioner's first master calendar hearing is scheduled for May 5, 2026, before
2 Immigration Judge Sameit.

3 12. Petitioner does not challenge any final order of removal. She challenges only
4 the legality of her present detention and the lack of a lawful and
5 constitutionally adequate custody determination.
6

7 13. Because Petitioner was detained after living in the United States for more than
8 two decades, the discretionary detention framework of 8 U.S.C. § 1226
9 governs her custody, not the entry-focused detention provisions of 8 U.S.C. §
10 1225(b) and not the post-final-order detention provisions of 8 U.S.C. § 1231.
11

12 14. Petitioner's detention is unlawful for several independent reasons. First, it is
13 contrary to the Immigration and Nationality Act ("INA") because, on the facts
14 known here, § 1226 governs. Second, it violates the Fifth Amendment because
15 Petitioner was taken into civil immigration custody without any individualized
16 pre-detention process or timely constitutionally adequate custody
17 determination. Third, it is arbitrary and capricious under the Administrative
18 Procedure Act ("APA") because Respondents have provided no reasoned
19 explanation for the detention decision and no individualized findings. Fourth,
20 the detention is arbitrary civil confinement not reasonably tied to any
21 demonstrated present need.
22

23 15. Immediate release is the proper primary remedy. As multiple federal courts
24 have explained, a post-detention bond hearing does not undo the injury
25 already inflicted by an unlawful deprivation of liberty.
26
27
28

1 16. In the alternative, if the Court declines to order immediate release outright,
2 Petitioner requests a prompt custody determination within five (5) days before
3 a neutral decisionmaker under the § 1226(a) framework, with the burden on
4 the government to establish by clear and convincing evidence that continued
5 detention is necessary.
6

7 17. Each additional day of detention inflicts irreparable harm.
8

9
10 **II. JURISDICTION**

11 18. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in
12 custody under federal authority and alleges that she is in custody in violation
13 of the Constitution and laws of the United States. See 28 U.S.C. § 2241(a),
14 (c)(3); Preiser v. Rodriguez, 411 U.S. 475, 484 (1973).
15

16 19. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action
17 arises under federal law, including the Constitution, the INA, and the APA.

18 20. The Court's habeas jurisdiction extends to immigration-detention claims
19 asserting statutory error and constitutional violations. See *Zadvydas v. Davis*,
20 533 U.S. 678, 687–88, 699 (2001); *Rodriguez Diaz v. Garland*, 53 F.4th 1189,
21 1208–09 (9th Cir. 2022); *Hernandez v. Sessions*, 872 F.3d 976, 986–88 (9th
22 Cir. 2017).
23

24 21. Petitioner does not seek review of any final order of removal.

25 22. Jurisdiction is not barred by 8 U.S.C. § 1252(g) or § 1252(b)(9) because
26 Petitioner challenges the legality of her detention and the statutory and
27 constitutional framework governing that detention, not any decision to
28

1 commence proceedings, adjudicate removability, or execute a final removal
2 order. See *Jennings v. Rodriguez*, 583 U.S. 281, 293–95 (2018); *Reno v. Am.-*
3 *Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); *Dep’t of*
4 *Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1907 (2020).

5
6 23. The APA independently authorizes review of final agency action that is
7 arbitrary, capricious, contrary to law, or in excess of statutory authority. 5
8 U.S.C. § 706(2).

9
10 24. Accordingly, this Court has jurisdiction to determine the legality of
11 Petitioner’s custody and to order appropriate habeas, declaratory, and
12 injunctive relief.

13 **III. VENUE**

14 25. Venue is proper in this District because Petitioner is detained within the
15 Southern District of California at the Otay Mesa Detention Center.

16
17 26. Venue is also proper because Petitioner’s immediate custodian is located
18 within this District. See *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484
19 (1973); *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).

20 27. The detention challenged in this Petition is presently occurring within this
21 District, and this Court is therefore the proper forum to adjudicate the legality
22 of Petitioner’s confinement.
23
24
25
26
27
28

IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

28. Under 28 U.S.C. § 2241, federal courts may entertain petitions for habeas corpus filed by persons who are in custody in violation of the Constitution or laws of the United States.

29. This is a classic habeas case. Petitioner challenges the fact and legality of her civil confinement and seeks release from allegedly unlawful detention.

30. Section 2243 requires prompt judicial action. The statute directs that the Court shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it plainly appears from the petition that the petitioner is not entitled to relief.

31. The urgency of habeas review is especially acute where a person is deprived of physical liberty and where the first immigration-court appearance is imminent.

32. Nothing on the face of this Petition shows that Petitioner is not entitled to relief.

33. To the extent any form of prudential exhaustion could be argued, it should be excused because Petitioner is asserting statutory and constitutional challenges to detention itself, because no final administrative custody determination has been provided, because a post-detention hearing cannot fully remedy the injury already suffered, and because delay would cause continuing irreparable harm.

34. Prompt intervention is warranted.

V. PARTIES

35. Petitioner Andrea Martinez Sanchez is a noncitizen currently detained by ICE at the Otay Mesa Detention Center in San Diego County, California.

36. Petitioner entered the United States without inspection in 2002.

37. Petitioner previously had DACA.

38. Petitioner remained in the community for years before being detained on April 27, 2026.

39. Petitioner has one 2021 misdemeanor battery conviction and one 2021 DUI case.

40. Petitioner completed all terms of probation associated with those matters.

41. Petitioner is single and has no children.

42. Petitioner has a boyfriend in the United States.

43. Petitioner's parents live in the United States but lack lawful immigration status.

44. Petitioner also has two siblings in the United States,  who have resided in the United States for approximately twenty years.

45. Petitioner's first master calendar hearing is set for May 5, 2026, before Immigration Judge Sameit.

VI. RESPONDENTS

46. CHRISTOPHER J. LAROSE is the warden of Otay Mesa Detention Center and has immediate physical custody over Petitioner. As the local custodian, the Warden is responsible for the day-to-day administration of the detention facility

1 where Petitioner is held. The Warden is sued in his/her official capacity as a
2 representative of the entity exercising direct custody over Petitioner.

3 47. Respondent JOSEPH FREDEN is the Acting Field Office Director of U.S.

4 Immigration and Customs Enforcement (ICE), in San Diego California. ICE is the
5 component of the Department of Homeland Security (DHS) which is responsible
6 for detaining and removing noncitizens according to immigration law and
7 oversees custody determinations. Mr. Freden is named in his official capacity. In
8 his official capacity, he is a legal custodian of the petitioner.
9

10 48. Respondent MARKWAYNE MULLIN, in his official capacity as the Secretary of
11 the Department of Homeland Security, is the highest-ranking official in DHS. He
12 has ultimate authority over ICE and the enforcement of immigration laws,
13 including detention policy. DHS, under Respondent Noem's direction, is
14 responsible for the decision to continue Petitioner's detention and to designate
15 him as subject to mandatory custody. He is sued in his official capacity.
16

17 49. Respondent PAMELA BONDI, in her official capacity as the Attorney General of
18 the United States, oversees the U.S. Department of Justice, which includes the
19 Executive Office for Immigration Review (EOIR). EOIR encompasses the
20 nation's Immigration Courts and the Board of Immigration Appeals (BIA). The
21 Attorney General has ultimate authority over immigration court procedures,
22 including the availability of bond hearings and the interpretation of detention
23 statutes through precedent decisions. Respondent Bondi is sued in her official
24 capacity.
25
26
27
28

VII. LEGAL FRAMEWORK

50. Federal immigration law has different detention rules depending on a noncitizen's procedural posture.

51. Section 1225(b) governs the detention of certain noncitizens seeking admission into the United States, including arriving noncitizens and certain recent entrants placed into admission-related processes.

52. Section 1226 governs the arrest and detention of noncitizens already in the country pending a decision on whether they are to be removed.

53. Section 1231 governs detention after an administratively final order of removal.

54. The Supreme Court has recognized that the government may detain certain noncitizens "seeking admission" under §§ 1225(b)(1) and (b)(2), while § 1226(a) allows the government to detain noncitizens "already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

55. Petitioner falls into the latter category. She entered in 2002 and was randomly arrested by ICE in the interior on April 27, 2026, after living in the United States for approximately twenty-four years.

56. Her first master calendar hearing is scheduled for May 5, 2026, confirming that she is in ongoing removal proceedings and has no final removal order.

57. Recent Southern District authority squarely holds that long-term interior residents detained years after entry are governed by § 1226, not § 1225. See, e.g., *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837, at *4–7 (S.D. Cal. Nov. 4,

2025); Ramirez v. Noem, No. 3:26-cv-01880-RBM-VET, slip op. at 3 (S.D. Cal. Apr. 9, 2026).

58. In Ramirez, the court held: “There is no dispute that Petitioner was detained on March 5, 2026, after having resided in the United States for over 20 years. Therefore, the discretionary detention procedures of § 1226 govern Petitioner’s detention, and the Petition must be granted.”

59. The same principle applies here. Petitioner has been present in the United States far longer than the petitioner in Ramirez and was likewise arrested after many years of community presence.

60. On the present facts available to Petitioner, Respondents have not established that Petitioner falls within any mandatory detention category under § 1226(c). The known criminal history consists of one 2021 misdemeanor battery conviction and one 2021 DUI case, and Petitioner completed all probation terms. Respondents have not provided Petitioner with any individualized custody determination identifying a mandatory-detention basis.

61. In any event, whether or not Respondents may ultimately attempt to rely on some detention provision, the Fifth Amendment imposes independent constitutional limits on civil immigration detention. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

62. “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.

1 63. Civil detention must bear a reasonable relation to a legitimate government
2 purpose and cannot be excessive in relation to that purpose. See *Foucha v.*
3 *Louisiana*, 504 U.S. 71, 80 (1992).

4
5 64. The Due Process Clause also requires procedures adequate to guard against
6 erroneous deprivation of liberty. *Mathews v. Eldridge*, 424 U.S. 319, 334–35
7 (1976).

8 65. Where detention is imposed without timely, meaningful, individualized process,
9 district courts have granted habeas relief.

10
11 66. Courts have also recognized that a later bond hearing does not necessarily cure
12 the injury from an unlawful detention already imposed. See *E.A. T.-B. v.*
13 *Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025); *Jorge M.F. v.*
14 *Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021); *Domingo v. Kaiser*, No.
15 25-cv-05893-RFL, 2025 WL 1940179, at *3 (N.D. Cal. July 14, 2025); *Duong v.*
16 *Kaiser*, 800 F. Supp. 3d 1030, 1043–44 (N.D. Cal. 2025); *Lepe v. Andrews*, 801
17 F. Supp. 3d 1104, 1119–20 (E.D. Cal. 2025).

18
19 67. Recent S.D. Cal. orders have likewise required prompt individualized custody
20 proceedings with the government bearing a clear-and-convincing burden where
21 such relief was appropriate. See *Sadeqi v. LaRose*, 809 F. Supp. 3d 1090, 1095
22 (S.D. Cal. 2025); *Ramirez*, No. 3:26-cv-01880-RBM-VET, slip op. at 4 n.3.

23
24 68. These authorities collectively support the relief sought here.

25 **VIII. FACTS**

26 69. Petitioner entered the United States without inspection in 2002.

27 70. Petitioner has resided in the United States for approximately twenty-four years.
28

1 71. At some point before the detention challenged here, Petitioner had DACA.

2 72. Petitioner lived in the community for years and was not in immigration detention
3 during that period.

4 73. Petitioner is single and has no children.

5 74. Petitioner has a boyfriend in the United States.

6 75. Petitioner's parents live in the United States but do not have lawful immigration
7 status.

8 76. Petitioner also has two siblings in the United States, [REDACTED] who
9 have resided in the United States for approximately twenty years.

10 77. In 2021, Petitioner sustained a misdemeanor battery conviction.

11 78. In 2021, Petitioner also had a DUI case.

12 79. Petitioner completed all terms of probation connected to those criminal matters.

13 80. Since completing probation, Petitioner remained in the community.

14 81. On April 27, 2026, ICE arrested Petitioner without prior notice or warning.

15 82. ICE transported Petitioner to the Otay Mesa Detention Center.

16 83. Petitioner's detention occurred after approximately twenty-four years of presence
17 in the United States.

18 84. Petitioner was not provided with any individualized pre-detention custody hearing
19 before being taken into civil immigration custody.

20 85. Petitioner has not received any meaningful individualized custody determination
21 explaining why detention is necessary.

22 86. To Petitioner's knowledge, Respondents have not articulated any present facts
23 showing that she is a danger to the community or a flight risk.

1 87. To Petitioner's knowledge, Respondents have not identified any material change
2 in circumstances or any new conduct that would justify summary civil detention.

3 88. Whatever weight Respondents may seek to assign to Petitioner's 2021 criminal
4 matters, those matters are years old and Petitioner completed all probation terms.

5 89. Petitioner's first master calendar hearing is scheduled for May 5, 2026, before
6 Immigration Judge Sameit.

7 90. No final order of removal has been entered against Petitioner.

8 91. Petitioner remains detained at Otay Mesa without a constitutionally adequate
9 custody determination.

10 92. Petitioner's detention separates her from her family and boyfriend, disrupts her
11 life in the community, and inflicts continuing irreparable harm

12
13
14
15 **IX. FIRST CLAIM FOR RELIEF**

16 **Violation of the Immigration and Nationality Act (Detention Contrary to Law)**

17 Petitioner incorporates by reference the allegations of fact set forth in the preceding
18 paragraphs:

19 93. Petitioner incorporates by reference all prior allegations as if fully set forth herein.

20 94. The INA provides different detention authorities depending on whether a
21 noncitizen is seeking admission, is already in the country pending removal
22 proceedings, or has a final order of removal.

23 95. Petitioner is not in post-final-order detention. Section 1231 therefore does not
24 apply.

1 96. Petitioner is also not an arriving noncitizen or a person apprehended upon or
2 immediately after entry in the sense contemplated by § 1225(b).

3 97. Petitioner entered the United States in 2002 and was arrested by ICE in the
4 interior on April 27, 2026, after approximately twenty-four years of residence
5 here.
6

7 98. Under Jennings, Beltran, Garcia, and Ramirez, detention in that posture is
8 governed by § 1226.
9

10 99. Thus, Respondents may not lawfully confine Petitioner under an entry-focused
11 mandatory detention theory under § 1225(b).

12 100. On the present record, Respondents have not established that Petitioner is
13 subject to mandatory detention under § 1226(c). The known facts show a 2021
14 misdemeanor battery conviction and a 2021 DUI case, with completed probation,
15 but Respondents have not provided any determination explaining why mandatory
16 detention would apply.
17

18 101. At minimum, Respondents are required to proceed under the discretionary
19 detention framework of § 1226(a), which requires lawful individualized custody
20 process.
21

22 102. Petitioner's continued detention outside the proper statutory framework is
23 contrary to the INA and exceeds Respondents' statutory authority.

24 103. Because Petitioner is in custody in violation of federal law, habeas relief is
25 warranted under 28 U.S.C. § 2241.
26
27
28

X. SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment (Procedural Due Process)

Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

104. Petitioner incorporates by reference all prior allegations as if fully set forth herein.

105. The Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law.

106. Petitioner's interest in physical liberty is profound. Freedom from detention lies at the core of due process protection.

107. Under *Mathews v. Eldridge*, the Court balances: (1) the private interest affected; (2) the risk of erroneous deprivation and the likely value of additional safeguards; and (3) the government's interest.

108. The first factor strongly favors Petitioner. Civil immigration detention deprives her of fundamental physical liberty.

109. The second factor also strongly favors Petitioner. Petitioner was detained without any individualized pre-detention hearing and without any meaningful custody determination explaining why detention was necessary despite her many years in the community, completed probation, prior DACA, and extensive family ties in the United States.

110. The risk of error is especially high where Respondents have not identified any present facts demonstrating dangerousness or flight risk.

111. Any later custody process cannot erase the liberty deprivation already inflicted. As federal courts have explained, a post-detention bond hearing is not an

adequate substitute for procedures that could have prevented an erroneous detention in the first place. See E.A. T.-B., 795 F. Supp. 3d at 1324; Jorge M.F., 534 F. Supp. 3d at 1055; Domingo, 2025 WL 1940179, at *3.

112. The third factor also favors Petitioner. While the government has a legitimate interest in ensuring appearance and protecting the community, it has little or no legitimate interest in detaining a person without any individualized showing and without timely constitutionally adequate process.

113. Petitioner does not deny her 2021 criminal matters. But due process does not permit the government to use old criminal cases, after probation has been completed, to dispense entirely with individualized custody process.

114. Because Petitioner was deprived of liberty without constitutionally sufficient procedures, her detention violates the Due Process Clause of the Fifth Amendment.

115. Habeas relief is warranted.

XI. THIRD CLAIM FOR RELIEF

Violation of the Administrative Procedure Act

(5 U.S.C. § 706 – Arbitrary, Capricious, and Contrary to Law Agency Action)

Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

116. Petitioner incorporates by reference all prior allegations as if fully set forth herein.

1 117. The APA requires courts to hold unlawful and set aside agency action that
2 is arbitrary, capricious, contrary to law, or in excess of statutory authority. 5
3 U.S.C. § 706(2)(A), (C).
4

5 118. To the extent Respondents' detention decision constitutes reviewable
6 agency action, the APA requires courts to hold unlawful and set aside agency
7 action that is arbitrary, capricious, contrary to law, or in excess of statutory
8 authority. 5 U.S.C. § 706(2)(A), (C). That detention decision is contrary to law to
9 the extent it rests on the wrong statutory framework rather than the discretionary
10 detention procedures of § 1226.
11

12 119. DHS's decision to arrest and continue detaining Petitioner fixed her
13 custody status and subjected her to ongoing confinement without a reasoned
14 individualized explanation.
15

16 120. Respondents failed to account for critical facts, including Petitioner's
17 extremely long residence in the United States, her prior DACA, her completion of
18 probation, her community ties, her relationship with her U.S.-based boyfriend,
19 and her close family ties, including her US citizen siblings.
20

21 121. Respondents also failed to articulate why alternatives short of detention
22 would be inadequate.
23

24 122. By detaining Petitioner without a reasoned and individualized explanation
25 and contrary to the proper statutory framework, Respondents acted arbitrarily,
26 capriciously, and not in accordance with law.
27

28 123. Petitioner is therefore entitled to relief under the APA.

XII. FOURTH CLAIM FOR RELIEF

Violation of the Fifth Amendment

(Substantive Due Process – Arbitrary Civil Detention)

Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

124. Petitioner incorporates by reference all prior allegations as if fully set forth herein.

125. Substantive due process imposes limits on the government's authority to subject persons to civil detention.

126. Civil detention is constitutionally permissible only where it is reasonably related to a legitimate governmental objective and not excessive in relation to that purpose. *Zadvydas*, 533 U.S. at 690; *Foucha*, 504 U.S. at 80.

127. Here, Respondents have not identified any individualized present facts showing that Petitioner poses a danger to the community or a flight risk.

128. Petitioner's known criminal matters are from 2021. Petitioner completed all probation terms.

129. Petitioner has longstanding community and family ties in the United States, including her parents, siblings, and boyfriend.

130. The current record, as known to Petitioner, does not show that continued detention is necessary to secure her appearance or protect the community.

131. Civil detention based on no demonstrated present need is arbitrary.

132. Petitioner recognizes that the government may consider her criminal history in a lawful individualized custody process. But substantive due process does not allow the government to impose or continue civil detention without an individualized, present-tense justification.

1 133. Because Petitioner's detention is not shown to be reasonably related to any
2 proven legitimate governmental objective, and is excessive in relation to any
3 articulated objective, it violates substantive due process.
4

5
6 **XIII. FIFTH CLAIM FOR RELIEF**

7 **Immediate Release Required; Alternatively, Prompt Custody Determination Under 8**
8 **U.S.C. § 1226(a)**

9 Petitioner incorporates by reference all prior allegations as if fully set forth herein.
10

11 134. Recent authority confirms that immediate release is an appropriate remedy
12 where a person is detained under the wrong statutory framework or without
13 constitutionally adequate process.
14

15 135. In Ramirez, the court held that where the petitioner had lived in the United
16 States for over twenty years before being detained, "the discretionary detention
17 procedures of § 1226 govern Petitioner's detention, and the Petition must be
18 granted."
19

20 136. The court further held that immediate release, rather than a bond hearing,
21 was the appropriate remedy.
22

23 137. That reasoning applies here. Petitioner entered in 2002 and was detained
24 in 2026 after approximately twenty-four years in the country.
25

26 138. Petitioner's detention is therefore governed by § 1226.

27 139. Immediate release is appropriate because a later hearing would not undo
28 the injury from detention already imposed.

1 140. Immediate release is especially appropriate here because: (a) Respondents
2 have not provided a lawful individualized custody determination; (b) the current
3 record does not show present danger or flight risk; (c) Petitioner completed all
4 probation terms associated with her 2021 criminal matters; and (d) Petitioner has
5 substantial ties to the United States.
6

7 141. In the alternative, if the Court declines to order immediate release outright,
8 the Court should require Respondents to provide Petitioner with a prompt custody
9 determination within five (5) days before a neutral decisionmaker under the §
10 1226(a) framework.
11

12 142. At that hearing, Respondents should bear the burden of proving by clear
13 and convincing evidence that Petitioner poses a danger to the community or a risk
14 of flight.
15

16 143. If Respondents fail to provide such a hearing within the time ordered by
17 the Court, Petitioner should be immediately released.
18

19 144. The Court should also prohibit Respondents from transferring Petitioner
20 outside this District during the pendency of this action absent prior Court
21 authorization.
22

23 **XIV. PRAYER FOR RELIEF**

24 WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- 25 a. Assume jurisdiction over this Petition pursuant to 28 U.S.C. §§ 2241 and 1331;
26
27 b. Issue the writ or an order to show cause under 28 U.S.C. § 2243;
28

1 c. Declare that Petitioner's continued detention is unlawful and violates the INA, the
2 Fifth Amendment, and the APA;

3 d. Declare that Petitioner's detention is governed by 8 U.S.C. § 1226 and not by 8
4 U.S.C. § 1225(b) or 8 U.S.C. § 1231;

5 e. Declare that Respondents' detention of Petitioner without any constitutionally
6 adequate individualized custody determination violates procedural due process;

7 f. Declare that Respondents' continued detention of Petitioner without any
8 demonstrated present need violates substantive due process;

9 g. Declare that Respondents acted arbitrarily, capriciously, and contrary to law within
10 the meaning of 5 U.S.C. § 706;

11 h. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner
12 from custody, subject to reasonable conditions of supervision if the Court deems
13 appropriate;

14 i. In the alternative, order Respondents to provide Petitioner with a prompt custody
15 determination within five (5) days before a neutral decisionmaker under 8 U.S.C. §
16 1226(a);

17 j. Order that at any such custody determination the burden shall be on the government
18 to establish by clear and convincing evidence that Petitioner poses a danger to the
19 community or a risk of flight;

20 k. Order that if Respondents fail to provide such a custody determination within the
21 time specified, Petitioner shall be immediately released;

22 l. Issue appropriate injunctive relief prohibiting Respondents from continuing
23 Petitioner's unlawful detention during the pendency of this action;

24
25
26
27
28

- 1 m. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this
2 Court while this Petition is pending, absent prior leave of Court;
3 n. Award Petitioner reasonable attorneys' fees and costs to the extent authorized by
4 law, including under the Equal Access to Justice Act, 28 U.S.C. § 2412; and
5 o. Grant such other and further relief as the Court deems just and proper.
6

7
8 Respectfully submitted on:

9 Dated: May 05, 2026
10
11
12

13 /s/ Daniel S. Castaneda
14 DANIEL S. CASTANEDA, Esq.
15 3065 Rosecrans Place, Suite 204 San Diego, CA 92110
16 Tel: (619) 710-6095
17 Fax: (619) 5664128
18 daniel@castalegal.com
19 Counsel for Petitioner-Plaintiff
20
21
22
23
24
25
26
27
28

28 U.S.C. § 2242 VERIFICATION STATEMENT

I, Daniel S. Castaneda, submit this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully submitted on:

Dated: May 05, 2026

/s/ Daniel S. Castaneda
DANIEL S. CASTANEDA, Esq.
3065 Rosecrans Place, Suite 204 San Diego, CA 92110
Tel:(619)710-6095
Fax:(619)5664128
daniel@castalegal.com
Counsel for Petitioner-Plaintiff