

Eduardo (Ed) Perez
(California Bar ID: 354544)
(Arizona Bar ID: 031187)
Law Offices of Ed Perez, P.C.
1079 Third Ave., Unit D
Chula Vista, California 91911
Telephone/Fax: (619) 913-7003
ed@edperezlaw.com
Attorney for Petitioner in Pro Bono

May 11, 2026

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

Leandro David ALVAREZ-ALMAGUER,)

Petitioner,)

v.)

Christopher J. LAROSE, in his official capacity)
as Warden of Otay Mesa Detention Center;)
Daniel A. BRIGHTMAN, in his official capacity as)
San Diego Field Office Director (FOD), Immigration)
and Customs Enforcement (ICE) Enforcement and)
Removal Operations (ERO); Todd LYONS, in his)
official capacity as Acting Director of ICE; and)
Markwayne MULLIN, in his official capacity as)
Secretary of Homeland Security, Todd BLANCHE,)
U.S. Attorney General; ICE;)
DEPARTMENT OF HOMELAND)
SECURITY (DHS),)

Respondents.)

File No: '26CV2950 RBM SBC



**PETITION FOR WRIT
OF HABEAS CORPUS**

I. INTRODUCTION

1. Petitioner Leandro David ALVAREZ-ALMAGUER (“Mr. ALVAREZ-ALMAGUER”) is a 19-year-old Cuban national who last entered the United States on or around October 21, 2025, near the San Ysidro Port of Entry in California. Mr. ALVAREZ-ALMAGUER was detained by ICE officials on the same date. DHS initiated removal proceedings when they issued Mr. ALVAREZ-ALMAGUER with a Notice to Appear on December 04, 2025, charging Mr. ALVAREZ-ALMAGUER as an “immigrant who, at the time of application for admission is not in possession of a valid or unexpired immigrant visa, reentry permit, border crossing card or other valid entry document” under 8 U.S.C. § 1182(a)(7)(A)(i)(I).

2. Mr. ALVAREZ-ALMAGUER has now been in immigration custody for six (6) months, with no end in sight.

3. The government has not justified why Mr. ALVAREZ-ALMAGUER remains detained after more than six (6) months.¹

4. Mr. ALVAREZ-ALMAGUER therefore seeks a writ of habeas corpus directing his immediate release, or in the alternative, a custody redetermination hearing in Immigration Court based on his prolonged detention.

5. Mr. ALVAREZ-ALMAGUER is represented here in Pro Bono by undersigned Counsel.

//

¹ See NTA, DHS form I-862, dated December 4, 2025; *See also* Notice of Expedited Removal, DHS form I-860, dated November 11, 2025.

II. VENUE AND JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (Suspension Clause), as Mr. ALVAREZ-ALMAGUER is presently in custody under the authority of the United States and challenging his detention as in violation of the Constitution, laws, or treaties of the United States.

7. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

8. Venue is proper because Mr. ALVAREZ-ALMAGUER is detained in the Otay Mesa Detention Center, within the San Diego Division, and Christopher J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center; and Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director (AFOD), as his immediate custodians. *See* 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

9. Petitioner, Mr. ALVAREZ-ALMAGUER, is a 19-year-old Cuban national being held in San Diego, California. He is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

10. Respondent Christopher J. LAROSE is the Warden of Otay Mesa Detention Center. Respondent LAROSE is responsible for the operation of the Detention Center where Mr. ALVAREZ-ALMAGUER is detained. As such, Respondent LAROSE has immediate physical custody of the Petitioner. He is being

sued in his official capacity.

11. Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director, ICE-ERO. Respondent BRIGHTMAN is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent BRIGHTMAN is being sued in his official capacity.

12. Respondent Todd LYONS is the Acting Director of ICE. Respondent LYONS is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent LYONS is a legal custodian of Mr. ALVAREZ-ALMAGUER and is being sued in his official capacity.

13. Respondent Markwayne MULLIN is the Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary MULLIN is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary MULLIN is being sued in his official capacity.

IV. EXHAUSTION OF REMEDIES

14. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

15. Mr. ALVAREZ-ALMAGUER submitted a request for parole via Fed Ex and email on March 04, 2026. Mr. ALVAREZ-ALMAGUER has yet to receive a response regarding discretionary parole.

16. Therefore, Mr. ALVAREZ-ALMAGUER has exhausted his

administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

17. DHS detained Mr. ALVAREZ-ALMAGUER under 8 U.S.C. § 1182(a)(7)(A) / INA 212(a)(7) – as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act.

18. Mr. ALVAREZ-ALMAGUER's lack of criminal history demonstrates he poses no reasonable risk to public safety.

19. Mr. ALVAREZ-ALMAGUER has 1) no prior Immigration Violations, 2) has a viable asylum claim, and 3) he poses no risk of absconding given that he has a strong form of relief, which is incentive to appear for his Immigration Court proceedings in the future.

20. During a Master Calendar hearing on February 11, 2026, DHS informed the Court that they were going to file a motion to pretermite Mr. ALVAREZ-ALMAGUER's asylum proceedings. On February 18, 2026, DHS filed their motion, asking the Court to pretermite Mr. ALVAREZ-ALMAGUER's asylum proceedings, and proposing he be sent to Ecuador to have his asylum case held there under a new scheme by the Trump Administration known as an Asylum Cooperative Agreement (ACA). The Immigration Judge granted the government's motion to pretermite on March 16, 2026, vacated all future-scheduled hearings, and ordered Mr. ALVAREZ-ALMAGUER removed to Ecuador. Mr. ALVAREZ-ALMAGUER will appeal this decision to the

Board of Immigration Appeals (BIA) and will appeal to the 9th Circuit if necessary. Thus, his detention is likely to continue for many more months.

21. This prolonged detention has caused Mr. ALVAREZ-ALMAGUER an extreme decline in his mental health.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

22. Habeas corpus relief extends to a person “in custody under or by color of the authority of the United States” if the person can show he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

23. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of the matter as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

///

///

///

VII. CAUSES OF ACTION

COUNT ONE (PROCEDURAL DUE PROCESS)

24. Petitioner incorporates paragraphs 1 through 23 as if fully set out herein.

25. The Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” Zadvydas v. Davis, 533 U.S. 678, 698 (2001); Trump v. J. G. C., 604 U.S. 670, 673 (2025)(“The Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.”).

26. Applying Zadvydas v. Davis, 533 U.S. 678, 698 (2001), Petitioner’s liberty interest is paramount; the risk of deprivation of Mr. ALVAREZ-ALMAGUER’s interest is extreme considering the lack of a non-independent adjudicator here, the six-month detention, the anticipated further delays, and the fact that MR. ALVAREZ-ALMAGUER will be appealing the decision to pretermitt his asylum proceedings to the Board of Immigration Appeals.

27. While the government has discretion to detain individuals, this discretion is not “unlimited” and must comport with constitutional due process. See Zadvydas, 533 U.S. at 698.

///

**COUNT THREE
(SUBSTANTIVE DUE PROCESS)**

28. Petitioner incorporates paragraphs 1 through 23 as if fully set out herein.

29. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

30. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

31. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

32. Given that government filings with the Immigration Court show Mr. ALVAREZ-ALMAGUER has no criminal history², no immigration violations, and no indications he will abscond, the Government’s continued detention here serves no legitimate purpose. Thus, continued confinement bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary and capricious.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 business days of the filing of this petition;
- 5) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing with an Immigration Judge under 8 U.S.C. § 1226(a) within seven days wherein the government bears the burden to show why Petitioner should not be released;
- 6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this May 11, 2026.

/s/Eduardo (Ed) Perez

Law Offices of Ed Perez

1079 Third Ave., Unit D

Chula Vista, CA 91911

CA Bar # 354544

Attorney for Petitioner in Pro Bono