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UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT OF CALIFORNIA

WOSBELY ISAAC VASQUEZ GONZALES
Proceeding Pro Se,
Petitioner,
v.
Warden, Imperial Regional Detention Facility
Respondents.

Civil Action No.: **3:26-cv-03121-CAB-AHG**

BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

Petitioner Wosbely Isaac Vasquez Gonzales is an asylum seeker, the father of a United States citizen child, and a long-term resident of this country who has been unlawfully detained for approximately nine months without a meaningful, individualized bond hearing. His detention is a profound injustice that violates both the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.

Mr. Vasquez Gonzales entered the United States as an unaccompanied child in 2015 and was released by immigration authorities, an act that created a protected liberty interest. For the next decade, he built a life in Salisbury, Maryland, graduating from high school, working steadily, and becoming the sole financial provider for his mother, his minor sister, and his own U.S. citizen daughter. In October 2025, Respondents abruptly revoked that liberty, arresting him in the interior of the country and transferring him thousands of miles from his home and family. This re-detention occurred without prior notice, without a hearing, and without any material change in circumstances that would justify such a drastic deprivation of freedom.

Respondents have since attempted to justify this confinement under the wrong statute and without the constitutionally required procedures. Because Petitioner's detention is statutorily unauthorized

and constitutionally infirm, he respectfully requests that this Court grant the writ of habeas corpus and order his immediate release.

II. STATEMENT OF FACTS

Petitioner Wosbely Isaac Vasquez Gonzales was born in Guatemala [redacted] Fearing persecution in his home country, he entered the United States on or about December 5, 2015, at the age of 15, as an unaccompanied minor. He was briefly detained by immigration authorities and subsequently released into the community, consistent with the requirements of the Trafficking Victims Protection Reauthorization Act (TVPRA).

Mr. Vasquez Gonzales settled in Salisbury, Maryland, where he built a life for the next ten years. He enrolled in the local public school system and graduated from James M. Bennett High School in 2019. He became a skilled and reliable construction worker, holding a job in the industry for seven years and becoming a valued employee[redacted].

He is a devoted father to his U.S. citizen daughter, [redacted] who was born in Maryland [redacted]. He is also the sole financial provider for his mother, age 45, and his younger sister, age 7. He has strong ties to his community in Maryland, including his church, Iglesia Vision Trinidad Divina Pentecostes, his employer, and his family, which includes a brother-in-law who is a lawful permanent resident.

In May 2025, Mr. Vasquez Gonzales was arrested for driving under the influence (DUI). He took full responsibility for this single mistake. He attended all court proceedings, completed a 12-hour alcohol education program, and performed 40 hours of community service at his church. He was placed on supervised probation.

On October 30, 2025, ICE agents arrested Mr. Vasquez Gonzales at a gas station in Salisbury, Maryland, as he was traveling to work. The agents dismissed his valid work permit, telling him it

"did not mean anything." Following his arrest, Respondents transferred him across the country to the Imperial Regional Detention Facility in Calexico, California, thousands of miles from his family, his community, and the evidence relevant to his pending asylum case. He has been detained ever since, for a period of approximately nine months.

On March 5, 2026, an Immigration Judge in Florida ordered Mr. Vasquez Gonzales removed. He filed a timely appeal to the Board of Immigration Appeals (BIA) on March 27, 2026. That appeal remains pending, and no final order of removal exists. He has never been afforded an individualized bond hearing before a neutral decision-maker to determine if his detention is necessary.

III. JURISDICTION AND VENUE

This Court has subject-matter jurisdiction over this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1331. The writ of habeas corpus remains available for all individuals detained within the United States to challenge the legality of their physical confinement in violation of the Constitution, laws, or treaties of the United States. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

The jurisdiction-stripping provisions of the REAL ID Act, codified at 8 U.S.C. § 1252, do not divest this Court of its authority to hear this case. This petition does not ask the Court to review the merits of any order of removal. Rather, it raises a collateral challenge to the statutory and constitutional authority for Petitioner's ongoing physical detention.

Venue is proper in the Southern District of California pursuant to 28 U.S.C. § 1391 and § 2242 because Petitioner is detained at the Imperial Regional Detention Facility in Calexico, California, which is located within this judicial district.

IV. LEGAL ARGUMENT

A. Section 1226(a) Governs Petitioner's Detention, Not Section 1225(b).

Respondents' detention of Petitioner is governed by the discretionary framework of 8 U.S.C. § 1226(a), which permits release on bond, not the mandatory detention provision of 8 U.S.C. § 1225(b). Section 1225(b) applies to "applicants for admission" who are actively "seeking admission" at a port of entry. *See Jennings v. Rodriguez*, 583 U.S. 281, 289, 303, 306 (2018),. Petitioner is not an "arriving alien." He was arrested at a gas station in Salisbury, Maryland, where he has resided for a decade.

The Ninth Circuit has recognized the crucial distinction between the detention authority applicable at the border under § 1225 and the authority applicable to individuals already in the country under § 1226. *See Aroldo Rodriguez Diaz v. Merrick Garland*, 53 F.4th 1189 (9th Cir. 2022). The government's attempt to classify every person who entered without inspection as a perpetual "applicant for admission" is an overbroad interpretation that would render § 1226(a) and its bond provisions meaningless. This Court should reject that interpretation and find that Petitioner, a long-term resident arrested in the interior, is entitled to a bond hearing under § 1226(a).

B. Petitioner's Prior Release as a UAC Created a Protected Liberty Interest.

When Petitioner was released by immigration authorities in 2015 as an unaccompanied minor, he acquired a protected liberty interest in his freedom. That release was governed by the TVPRA, 8 U.S.C. § 1232, which requires the Office of Refugee Resettlement (ORR) to place a child in the "least restrictive setting" and to only release a child after affirmatively determining the child is not a danger to the community or a flight risk. 8 U.S.C. § 1232(c)(2)(A).

The Supreme Court held in *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), that liberty, once granted, creates a protectable interest that cannot be revoked arbitrarily. Applying this principle, the Ninth Circuit held in *Saravia v. Sessions*, 905 F.3d 1137 (9th Cir. 2018), that the government

cannot re-detain a formerly unaccompanied minor who was released by ORR without, at a minimum, providing notice and an opportunity to be heard before a neutral decision-maker. *Id.* at 1143. Over the decade following his release, Petitioner strengthened this liberty interest through his deep and abiding ties to his family, community, and employment in Maryland.

C. Re-detention Without Notice or a Hearing Violates Due Process.

The constitutional violation occurred the moment Respondents arrested Petitioner and revoked his liberty without any prior notice or a neutral hearing. This summary re-detention is a classic violation of procedural due process. The government cannot justify this deprivation by pointing to facts that were known at the time of his initial release, such as his manner of entry. Nor can it rely on his single DUI offense, for which he has demonstrated full rehabilitation. Even if new circumstances arise that might justify detention, the government is not excused from its constitutional obligation to provide pre-deprivation process.

D. The BIA Appeal is Pending; Section 1231 Does Not Apply.

Respondents cannot justify Petitioner's detention under 8 U.S.C. § 1231, which applies only *after* an order of removal becomes final. The removal period under § 1231(a)(1)(B) begins on the date the order becomes "administratively final." Because Petitioner filed a timely appeal of the Immigration Judge's decision with the BIA, his removal order is not yet final. *See Mirambeaux v. McAleenan*, No. 20-2212 (D.N.J. Mar. 16, 2020) (holding § 1226, not § 1231, governs detention while a BIA appeal is pending). Thus, Petitioner's custody remains governed by the pre-final-order provisions of § 1226.

E. The DUI Does Not Trigger Mandatory Detention Under § 1226(c).

Petitioner's single DUI offense does not fall within any of the categories of crimes that trigger mandatory detention under 8 U.S.C. § 1226(c). A simple DUI is not an aggravated felony or a

crime involving moral turpitude. Because the specific conditions for mandatory detention are not met, § 1226(a) entitles Petitioner to an individualized bond hearing. *See Sutherland v. Shanahan*, 108 F. Supp. 3d 172 (S.D.N.Y. 2015).

F. *Mathews v. Eldridge* Balancing Favors Petitioner.

The three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), confirms that Petitioner's detention violates due process. First, his private interest in his physical liberty and his relationship with his U.S. citizen child is fundamental. Second, the risk of an erroneous deprivation is exceptionally high when the government acts unilaterally without a hearing before a neutral adjudicator. *See Cabrera Galdamez v. Joyce*, No. 22-cv-2741 (S.D.N.Y. Feb. 6, 2023). Third, the government's burden in providing a routine bond hearing is minimal compared to the severe harm caused by Petitioner's prolonged and arbitrary detention.

G. Prolonged Detention Without a Bond Hearing is Unconstitutional.

Petitioner has been detained for approximately nine months without a meaningful opportunity to be heard on the necessity of his confinement. The Due Process Clause requires the government to provide an individualized bond hearing where it must prove by clear and convincing evidence that a non-citizen is a flight risk or a danger to the community. *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). This prolonged detention, particularly under the guise of the mandatory detention statute, has become constitutionally suspect. *See Alejandro Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015) (construing § 1225(b) to require a bond hearing after six months).

H. Jurisdiction is Not Barred by 8 U.S.C. § 1252.

This Court's habeas jurisdiction is not barred by 8 U.S.C. § 1252 because this petition challenges the lawfulness of Petitioner's physical custody, not the merits of his removal proceedings. The Supreme Court has repeatedly affirmed that habeas jurisdiction remains to review the legality of

executive detention. *St. Cyr*, 533 U.S. at 301.

I. Immediate Release is the Proper Remedy.

The traditional and proper remedy for unlawful detention is immediate release. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Respondents have detained Petitioner under the wrong statute and in violation of his due process rights. Because the government has failed to identify any valid legal authority for his confinement, this Court should order him released. *See Baez Rufino v. Tsoukaris*, No. 20-3331 (D.N.J. May 27, 2020), ("Once the statutory basis invoked by Respondents is rejected, and Respondents identify no alternative lawful authority supporting custody, immediate release is required."). A future hearing cannot retroactively cure the constitutional violation that has already occurred. The only way to provide meaningful relief is to restore the status quo that existed before the unlawful detention: Petitioner's freedom.

J. Irreparable Harm

Every day that Petitioner remains unlawfully detained constitutes irreparable harm. This harm is compounded by the forced separation from his U.S. citizen daughter and the financial devastation it has caused his dependent mother and sister. His detention and cross-country transfer have also severely prejudiced his ability to gather evidence and prepare his asylum case. This ongoing, multi-faceted harm demands immediate judicial intervention.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioner Wosbely Isaac Vasquez Gonzales respectfully requests that this Court:

1. Grant the Petition for a Writ of Habeas Corpus and order Respondents to immediately release Petitioner from custody;
2. In the alternative, order Respondents to provide Petitioner with an immediate bond hearing before an Immigration Judge, at which the Government must prove by clear and convincing

evidence that his continued detention is necessary to prevent a risk of flight or a danger to the community;

3. Enjoin Respondents from transferring Petitioner from his current place of detention pending the resolution of this matter;
4. Order that any future re-detention of Petitioner may only occur after Respondents provide at least seven (7) days' written notice and a pre-deprivation hearing before a neutral adjudicator; and
5. Grant such other and further relief as the Court deems just and proper.

VERIFICATION

I, Wosbely Isaac Vasquez Gonzales, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: July 21, 2026

Respectfully submitted,

/s/ Wosbely Isaac Vasquez Gonzalez
Wosbely Isaac Vasquez Gonzalez
Pro Se