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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MELVIN GEOVANY RAMOS-ACOSTA Petitioner, vs. **FERETI SEMAIA, Warden, Adelanto ICE Processing Center; JAIME RIOS, Field Office Director, Los Angeles Field Office, ICE; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of Homeland Security; and TODD BLANCHE, Acting Attorney General of the United States,** Respondents	Case No.: 2:26-cv-5655 **PETITION FOR WRIT OF HABEAS CORPUS** **PETITIONER'S ALIEN NO.:** [redacted]

INTRODUCTION

1. Petitioner MELVIN GEOVANY RAMOS-ACOSTA brings this Petition for Writ of Habeas Corpus under 28 U.S.C. 2241 to challenge the legality of his warrantless arrest and his ongoing detention in custody of the U.S. Immigration and Customs Enforcement ("ICE").

2. Petitioner is a native and citizen of Honduras who has been physically present in the United States since approximately March of 2002.

3. Petitioner's alien number is A[redacted]

4. Petitioner is currently detained at the ADELANTO ICE PROCESSING CENTER in Adelanto, California by immigration authorities and is the subject of a pending removal proceedings. Petitioner has been in custody since December 15, 2025.

5. As a threshold matter, Petitioner contends that his detention is unlawful because he is being detained in violation of his Fourth Amendment and Fifth Amendment (Due Process Clause).

6. On December 15, 2025, Petition was standing on a public street, committing no offense and giving no indication of unlawful activity when he was seized and arrested by ICE. Petitioner was seized without a warrant in Carson, California. He was seized not because any officer had specific, articulable facts suggesting he had violated the law, but for the sole reason that immigration agents were conducting an enforcement operation nearby.

Bond Denial

7. On February 11, 2026, an immigration judge in Adelanto Immigration Court denied Petitioner's Bond Redetermination Hearing. Such Bond hearing was ordered by the Central District in a group habeas corpus petition. ***(See Exhibit 1 –*** **TRO Order by the United States District Judge dated 02/06/2026).**

8. The IJ concluded that Petitioner was a flight risk. The IJ reasoned that Respondent was flight risk because his sponsor lives in Virigina; Petitioner had

two failures to appear on an earlier arrest, and that Petitioner did not recognize or contradicted details in the letters of recommendations about Petitioner.

9. The IJ concluded that "The Court concludes that "no monetary bond even if coupled with alternatives to detention, would be sufficient" to ensure Respondent's appearance at future immigration hearings and, if necessary, surrender for removal from this country. *Matter of Akhmedov*, 29 I&N Dec. 166, 168 (BIA 2025)." (***See Exhibit 2* - Order of the Immigration Judge at the Bond Hearing).**

10. First, and foremost, Petitioner's detention violates the Fourth Amendment. The government did not have any basis to detain Petitioner because he was not committing any crime or there was an indication that he was committing unlawful activity.

11. Second, the arrest independently violated 8 U.S.C. § 1357(a)(2), which authorizes a warrantless immigration arrest only where the officer has reason to believe both that the person is unlawfully present *and* that he is "likely to escape before a warrant can be obtained for his arrest."

12. Thus, Petitioner's statements regarding citizenship, documentation, and entry were unlawful and violation of the Fourth Amendment and should be excluded under the Exclusionary Rule as fruit of an unlawful arrest.

13. Third, Petitioner's detention violates the Due Process Clause of the Fifth Amendment because Petitioner was seized without a warrant, given no notice of basis for his detention, transported to immigration detention without opportunity to be heard before a neutral decisionmaker for his detention. Thus, Petitioner did not receive the due process to which he was entitled under the Process Clause of the Fifth Amendment.

14. Lastly, the immigration judge failed to properly apply the factors required by the BIA's precedent decisions *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) and *Matter of Patel*, 15 I. & N. Dec. 666, 666–67 (BIA 1976). Given

that Petitioner has resided in the United States for more than 20 years, has no criminal history, has worked, has established family ties, and is eligible for relief from removal, precedent establishes that the immigration judge find that he is not a flight risk and order a reasonable bond.

15. The only factors that the IJ relied on were two failures to appear on an earlier arrest more than 13 years ago. The case was a misdemeanor that did not involve physical violence or an aggravated felony. Petitioner failed to appear in court by mistake, but the case is now done and completed. There are no repercussions for Petitioner.

16. Accordingly, Petitioner seeks a writ of habeas corpus ordering his immediate release from ICE custody because his continued detention violates the Fourth Amendment and Due Process Clause of the Fifth Amendment.

JURISDICTION AND VENUE

17. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment). This his action arises under the Fifth Amendment to the United States Constitution, the Immigration and Nationality Act (INA),United States Constitution Article I, Section 9 (Suspension Clause).

18. Venue is proper in the Central District of California under 28 U.S.C. § 2241 because Petitioner is currently detained within this District at the Adelanto ICE Processing Center. Venue properly lies within the Central District of California under 28 U.S.C.§ 1391, because this is a civil action in which Respondents are agencies of the United States, Petitioner is detained in this District, and a substantial part of the events or omissions giving rise to this action occurred in the district.

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REQUIREMENTS OF 28 U.S.C. § 2243

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

20. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

21. Petitioner, MELVIN GEOVANY RAMOS-ACOSTA is currently detained at the ADELANTO immigration detention center in Adelanto, California.

22. Respondent, FERETI SEMAIA, is the warden of Adelanto Detention Center, and is sued in his official capacity. The Adelanto Detention Center has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

23. Respondent, JAIME RIOS, is the ICE Field Office Director of the Los Angeles ICE Field Office and is sued in his official capacity. ICE Filed Office Director is responsible for the detention of Petitioner.

24. Respondent TODD LYONS is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in HIS official capacity. ICE is responsible for the detention of Petitioners.

25. Respondent MARKWAYNE MULLIN is the Secretary of the Department of Homeland Security ("DHS"), and is sued in his official capacity.

The Secretary of Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).

26. Respondent TODD BLANCHE is the Attorney General of the United States and is sued in his official capacity as the head of the Department of Justice. The Attorney General is responsible for the fair administration of the laws of the United States.

STATEMENT OF FACTS

27. Petitioner is a native and citizen of Honduras currently detained by Immigration and Customs Enforcement ("ICE") at the Adelanto ICE Processing Center.

28. Petitioner is 48 years old and has lived in the United States for nearly 22 years.

29. Petitioner is the pastor of [redacted], a church in Long Beach, California, and has deep and longstanding ties to that community. He leads a congregation of approximately 20-30 members.

30. Until his detention, Petitioner resided continuously in Long Beach, California, where he lived and worked.

31. Petitioner has a pending application for a U nonimmigrant visa. USCIS issued him a Bona Fide Determination and, on that basis, granted him deferred action. **(*See Exhibit 3* – Bona Fide Determination Notice with Deferred Action.)**

32. Petitioner is authorized to work in the United States and holds an Employment Authorization Document valid through January 14, 2029. ***(See Exhibit 4*** **– Employment Authorization Document.*)***

33. Petitioner has no criminal convictions. This is undisputed as the form I-213, which is the record for a deportable alien states that Petitioner has no criminal convictions. ***(See Exhibit 5*** **- Form I-213, Record of Deportable/Inadmissible Alien).**

34. Petitioner has been detained since December 2025. This long detention is affecting him, his family, and his congregation.

Initial Arrest in December 2025

35. This matter arises from Petitioner's arrest by immigration authorities on December 15, 2025. (***See Exh 5.* – I-213 Record of Deportable/Inadmissible Alien**).

36. On December 15, 2025, Petitioner was at Home Depot in Carson, California, in the vicinity of an immigration enforcement operation. An immigration agent observed Petitioner on the Home Depot premises and stopped him. At that moment, Petitioner was not engaged in any unlawful activity, and the agent had no information particular to Petitioner suggesting that he had violated any law.

37. After stopping him, the agent asked Petitioner about his country of citizenship, and Petitioner stated that he is from Honduras. The agent then asked whether Petitioner had any documents, and Petitioner stated that he had a work permit. **(*See Exh. 5* – Form I-213, at 3.)**

38. This information was not enough for the agent and the agent continued asking him questions about how he entered the country. The Form I-213 prepared by the agent further asserts that Petitioner admitted entering the United States without inspection. ***(Id.)***

39. At the time of the stop and arrest, Petitioner was committing no offense, and there was no indication that he was unlawfully present in the United States. To the contrary, Petitioner was lawfully present. He had been granted deferred action in connection with his pending U visa application and held a valid Employment Authorization Document. (***See Exhibits 3, 4)***

40. Although Petitioner informed the agent that he held a work permit, ICE arrested him and placed him in removal proceedings for his illegal entry.

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Bond Hearing Denial

41. Following his arrest, Petitioner was detained and placed into removal proceedings, notwithstanding his deferred action and employment authorization.

42. On February 11, 2026, the Immigration Judge denied Petitioner's request for release on bond. Although Petitioner has resided in the United States for nearly 22 years, has paid taxes all these years, has no criminal convictions, has strong community ties, holds employment authorization, and has been granted deferred action, the Immigration Judge concluded that "no monetary bond, even if coupled with alternatives to detention, would be sufficient" to ensure his appearance at future immigration hearings and, if necessary, his surrender for removal." ***(See Exh 2,*** **Order of the Immigration Judge).**

43. The Immigration Judge based the flight-risk finding principally on a misdemeanor matter from more than a decade earlier and concluded that Petitioner was a flight risk because he had failed to appear twice in the past in a previous misdemeanor criminal case.

44. The Immigration Judge further relied on two observations from the hearing that, when asked about the individuals who had authored letters of recommendation on his behalf, Petitioner did not recognize some of their names or was inconsistent as to details in their letters; and that Petitioner's proposed sponsor resides in Virginia while Petitioner would reside in California. **(*See Exh. 2).***

45. On these bases, the Immigration Judge concluded that Petitioner was a flight risk and denied release on bond.

Petitioner's Criminal History

46. Petitioner had an allegation of public intoxication under Penal Code section 647(f) arising from an offense date of February 13, 2013. Also, he was charged under California Penal Code § 537(a)(1) (defrauding an innkeeper). Both offenses are misdemeanors. This incident occurred in Woodland, California in

Yolo County. Then, based on this public intoxication, he was cited for failure to appear from this offense. **(See Exhibit 6 – Criminal Record from Yolo County).**

47. Court records reflect that there was a subsequent failure to appear. However, Petitioner later appeared before the court at which time he was offered diversion. He completed diversion and the matter was dismissed on June 27, 2014.

48. Petitioner hereby states that his failure at the previous hearings in 2012 and 2014 were a confusion that he had. He hired an attorney in the past to represent him in those proceedings.

49. He completed everything in that case. The case was eventually dismissed. He was never even convicted. He just arrested.

Criminal History Explanation

50. In 2013, Petitioner was involved in a minor misdemeanor incident in Woodland, California, Yolo County. He and a friend dined at a restaurant but were unable to pay for their meal. His friend invited him to the restaurant and ordered food, but his friend became intoxicated and did not pay the bill.

51. When the restaurant contacted law enforcement, Petitioner remained and accepted responsibility for the bill. He was arrested and charged under California Penal Code § 537(a)(1) (defrauding an innkeeper) and also he was charged with Public Intoxication.

52. He was charged with failure to appear under California Penal Code § 853.7 twice out of this case. The proceedings were subsequently suspended, and Petitioner received no criminal conviction.

53. This incident occurred more than a decade ago. The case was completed in June 2014. Since then, Petitioner has had no further involvement with the criminal justice system. He has led a stable, law-abiding life as a pastor and community member in Long Beach, California. **(See Exhibit 7 – Declaration Explaining Incident of Arrest 2012/2013).**

54. Petitioner does not have any criminal case pending.

55. Petitioner has been a law-abiding citizen all these years. He has paid his taxes all these years since 2018. He is a pastor. People in his community need him to lead his congregation. People in his community speak positive about him. He has a sponsor in Virginia, which is his nephew to assure that he can attend immigration hearings. (**See Exhibit 8 – Bond Packet in Support of Bond and Custody Redetermination Hearing).**

56. Exhibit 8 is the bond packet was previously submitted to the immigration judge where the immigration judge denied the bond hearing.

LEGAL STANDARD

Writ of Habeas Corpus

57. Under 28 U.S.C. § 2241, a writ of habeas corpus may be granted to any petitioner who demonstrates that he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); see Rasul v. Bush, 542 U.S. 466, 473 (2004). The writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld,* 542 U.S. 507, 525 (2004).

58. The protections of habeas corpus extend to those in immigration detention. See *Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020); *Nadarajah v. Gonzales,* 443 F.3d 1069, 1075-76 (9th Cir. 2006).

59. Accordingly, noncitizens may invoke habeas in immigration-related matters where no other statutory mechanism for review is provided. *See Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).

60. 28 U.S.C. § 2241 confers on federal district courts "within their respective jurisdictions" the authority to hear applications for habeas corpus by any person who claims to be held "in custody in violation of the Constitution or laws or treaties of the United States . . . ." *Id.* §§ 2241(a), (c). After receiving the petition

and any response thereto, "[t]he court shall summarily hear and determine the facts, and dispose of the matter as law and justice require." 28 U.S.C. § 2243.

61. The petitioner bears the burden of proving that he is being held contrary to law by a preponderance of the evidence. *Walker v. Johnston*, 312 U.S. 275, 286 (1941) ("On a hearing, [the § 2241 petitioner has] the burden of sustaining his allegations by a preponderance of evidence."); *Parke v. Raley*, 506 U.S. 20, 31 (1992); *Sumner v. Mata*, 449 U.S. 539, 551 (1981).

Fourth Amendment

62. "The touchstone of the Fourth Amendment is reasonableness . . . ." *United States v. Knights*, 534 U.S. 112, 118 (2001). This is "generally assessed by carefully weighing 'the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion.'" *County of Los Angeles v. Mendez*, 581 U.S. 420, 427 (2017) (quoting *Tennessee v. Garner*, 471 U.S. 1, 8 (1985)). Overall, reasonableness is an objective inquiry that "is evaluated by looking at the 'totality of the circumstances.'" *Case v. Montana*, 607 U.S. ---, 146 S. Ct. 500, 508 (2026) (first quoting *Barnes v. Felix*, 605 U.S. 73, 80 (2025); and then quoting *Ohio v. Robinette*, 519 U.S. 33, 39 (1996)).

Fifth Amendment

63. The Fifth Amendment guarantees a different constitutional protection: due process. The Fifth Amendment states that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law . . . ." U.S. Const. amend. V. "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." *Zadvydas*, 533 U.S. at 690.

64. The Supreme Court has emphasized that "civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979). Further, "once an alien

enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."3 *Zadvydas*, 533 U.S. at 693.

CAUSES OF ACTION

COUNT ONE

Violation of Fourth Amendment

Unlawful Warrantless Seizure without Reasonable Suspicion

65. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

66. Under the Fourth Amendment, a stop or other seizure of the person must be supported by reasonable suspicion grounded in specific and articulable facts particular to the individual; neither apparent ethnicity nor mere presence in the vicinity of an enforcement operation can supply it. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975).

67. A person is seized when, in view of all the circumstances surrounding the encounter, a reasonable person would not have felt free to leave or otherwise terminate the encounter. *United States v. Mendenhall*, 446 U.S. 544, 554 (1980). Detention during an immigration enforcement operation, where agents stop an individual who is not free to walk away, is such a seizure. *See Perez Cruz v. Barr*, 926 F.3d 1128, 1138 (9th Cir. 2019).

68. Here, Petitioner was seized within the meaning of the Fourth Amendment. The I-213 attached herein as ***Exhibit 5*** clearly states Petitioner was arrested without reasonable suspicion that he was committing an unlawful activity or even worse that there was a reasonable suspicion that he was undocumented.

69. Form I-213 page 2 states that the officer who arrested petitioner was in the city of Carson, California conducting immigration enforcement operation in support of Operation at Large following President Trump's agenda.

70. For whatever reason no identified in the form I-213, the immigration agent created in his mind without articulate facts that Petitioner was undocumented and detained him in Home Depot in the city Carson randomly.

71. Page 2 of the form I-213 states that "**At approximately 10:45 a.m., I saw one subject, later identified as Melvin Giovani RAMOS Acosta at 110 E Sepulveda Blvd, Carson, Ca. I exited my vehicle to initiate a consensual encounter. I approached RAMOS Acosta from the front. I then conducted an immigration inspection. RAMOS Acosta was asked to provide his country of citizenship; to which he responded "Honduras". (*See Exhibit 5 at 2).*** Here at this point in time, Petitioner was seized and in violation of the Fourth Amendment

72. An ICE agent stopped and detained Petitioner on a public place during their operation; he was not free to disregard the agents and go about his business. He was therefore seized. That seizure was not supported by individualized reasonable suspicion. At the moment the agent stopped him, he possessed no specific, articulable fact particular to Petitioner suggesting that he had violated any law or even worse that he was undocumented. The sole basis for the stop was his presence in the vicinity of an ongoing ICE operation.

73. The sole basis for detaining Petitioner was racial profiling and being in an area where there is suspicion of undocumented people seeking work. However, that is not enough to justify detention.

74. The Ninth Circuit has squarely rejected that basis in materially indistinguishable circumstances: an agency's suspicion that unlawful activity is afoot in a location does not supply reasonable suspicion as to a particular person found there. In *Perez Cruz v. Barr* 926 F.3d 1128,1138 (9th Cir. 2019), ICE's suspicion that a worksite employed undocumented workers "did not provide reasonable suspicion that Perez Cruz himself was undocumented." *Id.* The same is true here.

75. The governing principle is settled: "a person's mere propinquity to others independently suspected of [unlawful] activity does not, without more, give rise to probable cause to search [or seize] that person." *Id.* (quoting *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979)).

76. Petitioner's mere proximity to an enforcement operation, the only basis for his seizure, thus cannot satisfy the Fourth Amendment under either standard.

77. Nor can the seizure be justified by anything the agents learned afterward. Reasonable suspicion must exist at the inception of the stop and is measured by the specific and articulable facts known to the officer at that moment; facts developed only through post-seizure questioning cannot retroactively supply the suspicion that was absent when the stop began. *See Terry v. Ohio*, 392 U.S. 1, 21–22 (1968).

78. Thus, Petitioner's detention is the product of an unconstitutional seizure, in violation of the Fourth Amendment.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. 706(2)(A)
Violation of 8 C.F.R. § 287.8(b)(2)
Detention Without Reasonable Suspicion

79. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

80. Under the APA, a court shall "hold unlawful and set aside agency action" that is not in accordance with law or an abuse of discretion. 5 U.S.C. § 706(2)(A).

81. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."

Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins.* Co., 463 U.S. 29, 43 (1983)).

82. 8 C.F.R. § 287.8(b)(2) requires that before detaining an individual for questioning, an immigration officer must have "a reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States, the immigration officer may briefly detain the person for questioning."

83. Here, the officers who stopped and detained Petitioner lacked any reasonable suspicion, based on specific and articulable facts, that he was or was attempting to be engaged in an offense against the United States or was unlawfully present. They detained him based solely on his presence in the vicinity of an ICE enforcement operation, with no fact particular to him.

84. The I-213 strongly supports that immigration agent "saw petitioner" and then proceeded to detain him. The I-213 does not state how the immigration agent form a basis for his detention or reasonable suspicion other than they conducting an operation enforcement at large in Carson, California.

85. The Ninth Circuit has held that detaining a person without the reasonable suspicion § 287.8(b)(2) requires violates the regulation, including where the detention rests solely on the person's race or apparent ethnicity. *Sanchez v. Sessions*, 904 F.3d 643, 650–52 (9th Cir. 2018).

86. Petitioner's detention was therefore effected, and continues to be maintained, in violation of 8 C.F.R. § 287.8(b)(2), and that agency action is not in accordance with law within the meaning of 5 U.S.C. § 706(2)(A).

87. This Court should hold the action unlawful, set it aside, and order Petitioner's release.

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COUNT THREE

Violation of the Administrative Procedure Act – 5 U.S.C. 706(2)(A)

Violation of 8 U.S.C. § 1357(a)(2)

Warrantless Arrest Without Probable Cause of Likelihood of Escape

88. Civil immigration arrest is lawful under 8 U.S.C. § 1357(a)(2) only where the officer has reason to believe both that the person is in the United States in violation of law and that he "is likely to escape before a warrant can be obtained for his arrest." In this Circuit, "reason to believe" is equivalent to probable cause. *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

89. At the time of the arrest, the arresting officers lacked probable cause to believe Petitioner was removable and possessed no facts establishing that he was likely to escape before a warrant could be obtained.

90. Petitioner was, and is, lawfully present. At the time of the detention, he had been granted deferred action in connection with his pending U-visa application and held a valid Employment Authorization Document, and he so informed the agent at the time of the stop. Petitioner did not run. He stayed on his ground and provided accurate information that is that he is legal in the country through deferred action based on his U visa pending.[1]

91. The officers likewise possessed no facts establishing that Petitioner was likely to escape before a warrant could be obtained. A person standing on a public street during a planned enforcement operation does not satisfy the statutory escape requirement.

92. Because the arrest exceeded the statutory authority conferred by § 1357(a)(2), Petitioner's resulting detention is unlawful.

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[1] *Arizona v. United States* (2012) 567 U.S. 387, 396 - deferred action is "a decision to defer removal action against an individual as an act of prosecutorial discretion." *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.* (2020) 591 U.S. 1, 12 - deferred action is DHS's practice of forbearing from removal for a fixed period.

COUNT FOUR

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

Detention and Constitutionally Defective Custody Determination

93. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

94. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

95. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

96. Due process requires that government action be rational and non-arbitrary. See *U.S. v. Trimble,* 487 F.3d 752, 757 (9th Cir. 2007). Due process also requires notice and "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

97. In this case, Petitioner clearly received no DUE PROCESS. He was seized without warrant, given no notice of the basis for his detention, and transported to a regional jail without an opportunity to be heard before a neutral decisionmaker. His arrest and seizure was arbitrary because it was not based on an individualized determination pertaining to whether Petitioner was a flight risk or unlawfully present in the United States. He was not violating any law and there was no indication that he lacked proper documentation.

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98. ICE pretty much detained him based on race because he was nearby an immigration enforcement operation. The government had not even probable cause to determine whether he lacked proper documentation. That again is not procedural process.

99. What the government offered instead of due process was a fait accompli: **SEIZURE, IMPRISONMENT, AND BOND HEARING WITHOUT PROCEDRAUL SAFEGUARDS.** The IJ concluded despite Petitioner having no criminal record, nearly 22 years of residence in the United States, being a pastor in his community, having a sponsor, paying taxes, and having work permit to legally work in the United States that "no monetary bond even if coupled with alternatives to detention, would be sufficient" to ensure Respondent's appearance at future immigration hearings and, if necessary, surrender for removal from this country" ***See Exh. 2*** – **Order of the Immigration Judge.**

100. The Immigration Judge made no individualized findings regarding Petitioner's financial circumstances and identified no specific alternative condition considered and found inadequate, offering only a conclusory statement that no bond coupled with any alternative could suffice.

101. A deprivation of physical liberty may not rest on considerations bearing no rational relationship to the question at issue. The Immigration Judge's flight-risk finding rested on a single misdemeanor matter from approximately thirteen years earlier that yielded no conviction, the out-of-state residence of Petitioner's proposed sponsor, and Petitioner's inability to recite the names of the authors of his letters of recommendation—none of which is rationally probative of his present likelihood of appearing.

102. That is no due process. It is the absence of it.

103. Thus, Respondent's stop, arrest, and continued detention of Petitioner are in violations of his due process rights under the Fifth Amendment.

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COUNT FIVE

Violation of Fifth Amendment Right to Due Process

Substantive Due Process

Detention not Reasonably Related to Any Legitimate Purpose

104. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

105. Freedom from physical restraint lies at the heart of the liberty protected by the Due Process Clause, and civil detention violates substantive due process unless it bears a reasonable relation to a legitimate governmental purpose. *Zadvydas*, 533 U.S. at 690 (2001).

106. Accordingly, "[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494 U.S. at 127 (Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property."). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

107. In this case, Petitioner does not have a criminal conviction. ICE asserted this fact. ***(See Exhibit 5 – I-213 Page 5).***

108. Petitioner has a fundamental interest in liberty and being free from official restrain. Petitioner has deferred action and cannot be removed from the United States.

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109. Petitioner poses no danger, and flight is implausible he has resided in the United States for 22 years and holds deferred action and a valid Employment Authorization Document and has no criminal convictions.

110. The Immigration Judge's conclusion that no bond in any amount, even coupled with alternatives to detention, could secure Petitioner's appearance is a determination that he must be detained outright. On these facts, outright physical detention bears no reasonable relation to any legitimate governmental purpose and therefore violates substantive due process.

111. Petitioner's continued detention is unconstitutional, and he is entitled to release.

COUNT SIX

Violation of Administrative Procedure Act

Ongoing Detention Unauthorized Under Matter of Patel

112. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

113. In *Matter of Patel*, Dec. 666, 666–67 (BIA 1976), the Board of Immigration Appeals considered whether an immigration judge erred in releasing a noncitizen on a bond of $500 rather than releasing him on his own recognizance. In setting a bond of $500, judge relied upon the noncitizen having "overstayed his student visa" and the fact that "the visa petition of which he is the beneficiary was denied because he lacked a labor certification." *Id.* at 667.

114. The Board reversed and held that "[t]hese factors bear little if any relevance to the issue of whether or not the [noncitizen] is likely to appear

115. for his deportation proceeding." *Id.* According to the Board, "[s]uch a broad interpretation of what constitutes an 'adverse factor' in this context could result in requiring a bond of almost every alien who is held in deportation proceedings."

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116. *Id*. Therefore, the Board ordered the release of the noncitizen on his own recognizance. *Id.*

117. *Matter of Patel* continues to be binding precedent. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 805 (BIA 2020) ("we have found that an alien who had prior lawful status and a probable path to future lawful status, as well as immediate family members with whom he could continue to reside in the United States, did not present a flight risk. *See Matter of Patel*, 15 I&N Dec. 666, 667 (BIA 1976)").

118. Immigration judges are required to follow precedent. 8 C.F.R. § 1003.1(g) ("decisions of the Board and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States.").

119. The one exception to *Matter of Patel* is that the bond statute now requires the posting of a minimum bond of $1500 when a noncitizen is ordered released by the Attorney General. 8 U.S.C. § 1226(a)(2).

120. In this case, the immigration judge found that Petitioner was a flight risk because Petitioner had failed to appear twice in his misdemeanor case. Such case occurred more than 10 years ago. The Judge also reasoned that Petitioner was a flight risk because his sponsor resides in another state and he did not accurately testify about the details of the people who wrote letters of recommendation.

121. *Matter of Patel* dictates that *no bond* should have been required at all, let alone a finding that Petitioner was a flight risk of such a magnitude that no bond could be set to provide incentives for his continued appearance before the immigration court. *Matter of Patel,* 15 I. & N. Dec. 666, 667 (BIA 1976) ("it appears to us that no reasons have been given to justify holding the respondent under even a minimal bond.")

122. "[A]n individual's bond hearing fails to comport with due process where an Immigration Judge relies on considerations that would lead to an

automatic denial of bond in all cases." *Lemus Crispin v. Bondi*, No. 1:26-CV-191 (LMB/WEF), 2026 WL 768859, at *5 (E.D. Va. Mar. 18, 2026).

123. Petitioner establishes that he is not a flight risk for purposes of 8 U.S.C. § 1226(a). He has lived in the United States for nearly 22 years. He has deferred action and work permit. He has paid taxes for many years. He is a pastor in his community. More importantly, he has no criminal convictions.

124. *Matter of Patel* dictates that Petitioner be released from custody without any showing of bond required at all, and the amended bond statute requires a minimum bond of $1500. 8 U.S.C. § 1226(a)(2). As such, the immigration judge was required to issue the minimum bond of $1500.

<u>COUNT SEVEN</u>

Violation of Administrative Procedure Act

Abuse of Discretion in Failing to Properly Apply Matter of Guerra

125. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

126. The denial of release on bond is a final agency action where, as here, prudential exhaustion not required.

127. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

128. Immigration judges are required to follow precedent. 8 C.F.R. § 1003.1(g) ("decisions of the Board and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States.").

129. The Board of Immigration Appeals' precedent decision in *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) requires that the noncitizen

demonstrate that he is not "a threat to national security, a danger to the community at large, likely to abscond, or otherwise a poor bail risk." *Id.* If these factors are met, the immigration judge is required to order release. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022).

130. The *Matter of Guerra* factors include any or all of the following:

(1) whether the alien has a fixed address in the United States;

(2) the alien's length of residence in the United States;

(3) the alien's family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future;

(4) the alien's employment history;

(5) the alien's record of appearance in court;

(6) the alien's criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses;

(7) the alien's history of immigration violations;

(8) any attempts by the alien to flee prosecution or otherwise escape from authorities; and

(9) the alien's manner of entry to the United States.

Matter of Guerra, 24 I. & N. Dec. 37, 40 (BIA 2006).

131. The immigration judge failed to apply the full set of *Matter of Guerra* factors at the last bond hearing.

132. Although Petitioner failed to appear twice in superior court, Petitioner was never convicted. Such charges were dismissed. Case was completed. The Petitioner does not have a criminal record.

133. Petitioner has been paying Taxes since 2018, he has resided in the United States for nearly 22 years, has worked, has no prior immigration violations with the exception of his unlawful entry, and has not attempted to escape authorities. He is pastor and leads a congregation in Long Beach, California. Petitioner is the definition of someone who is not a flight risk or danger to society

134. The finding that Petitioner was a flight risk such that no bond amount will secure his appearance at future immigration court hearings is an abuse of discretion in light of the *Matter of Guerra* factors.

COUNT EIGHT

Violation of Administrative Procedure Act:

Abuse of Discretion in Failing to Set Reasonable Bond Amount

135. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

136. The denial of release on bond is a final agency action where, as here, prudential exhaustion not required.

137. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

138. The immigration judge was required to set a reasonable bond amount to address any concerns that Petitioner is a flight risk, unless no bond amount would secure attendance in removal proceedings. *See e.g. Matter of R-A-V-P-,* 27 I. & N. Dec. 803, 807 (BIA 2020) (finding no amount of bond would secure attendance where the noncitizen had limited avenue for relief and minimal ties to the United States).

139. As Petitioner has valid avenues for relief and has established ties to the United States, the immigration judge was required to set a reasonable bond.

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PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this court:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from Custody

c. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

d. Order further relief as this Court deems just and appropriate.

Respectfully Submitted,

Dated: 05/26/2026

/s/ Ron Quijada

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully Submitted,

Dated: 05/26/2026

/s/ Ron Quijada

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LIST OF EXHIBITS

Exhibit 1 – TRO Order by the United States District Judge dated 02/06/2026)

Exhibit 2 – Order of the Immigration Judge at the Bond Hearing

Exhibit 3 – Bona Fide Determination Notice with Deferred Action

Exhibit 4 - Petitioner's Valid Work Permit Authorization

Exhibit 5 – Form I-213, Record of Deportable/Inadmissible Alien

Exhibit 6– Criminal Record from Yolo County

Exhibit 7 – Declaration of Petitioner Explaining Criminal History

Exhibit 8 – Bond Packet in Support of Bond and Redetermination Hearing