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JOSE MARIA MORENO

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JOSE MARIA MORENO

Petitioner,

v.

MARKWAYNE MULLIN, Secretary, United States Department of Homeland Security; RODNEY S. SCOTT, Commissioner, United States Customs and Border Protection; GREGORY J. ARCHAMBEAULT, in his official capacity as Acting Field Office Director for San Diego, U.S. Immigration and Customs Enforcement; DOUG GLEN, Special Agent in Charge for San Diego, Homeland Security Investigations, U.S. Immigration and Customs Enforcement; JEREMY CASEY, in his official capacity as Warden of Imperial Regional Detention Facility

Respondents.

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Case No. **'26CV3260 DMS DDL**

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner JOSE MARIA MORENO is imprisoned by the federal government under color of the immigration laws. He is presently detained at IMPERIAL REGIONAL DETENTION FACILITY under Alien Registration Number [redacted] Petitioner resides in Miami, Florida. Mr. Moreno is a single man, with no children. He first entered the United States in 2024 by presenting himself at the United States border and applying for asylum. He was detained for approximately two months before being released. Upon his release he went to Miami, Florida to live with extended family. He was paced on Intensive Supervision Appearance Program (ISAP). ICE required that Mr. Moreno wear an ankle monitor and check-in with a local ICE office. At first, he was required to check-in on a monthly basis. Mr. Moreno never missed a date and was always in compliance. As a result, ICE loosened its restrictions and removed Mr. Moreno's ankle monitor and allowed him to appear for his check-ins once per year. Mr. Moreno appeared before the Immigration Court with counsel various times without fail. Mr. Moreno was arrested by ICE in Florida as he made his way to work. There were no other criminal acts or violations that would have provoked an arrest by ICE.

Through this Petition, Petitioner seeks immediate release from his continued confinement. His present detention is unlawful because it results from the convergence of multiple unconstitutional government actions.

First, Respondents effectively held Petitioner incommunicado during the initial period of detention. Petitioner was denied meaningful contact with the outside world during approximately the first six days of incarceration, including communication with family members and counsel, and thereafter allegedly

received only a single brief attorney communication. These restrictions impaired Petitioner's ability to challenge detention and obtain meaningful access to counsel during the critical initial stages of confinement. See *Bounds v. Smith*, 430 U.S. 817, 821–22 (1977); *Procunier v. Martinez*, 416 U.S. 396, 419 (1974), overruled on other grounds by *Thornburgh v. Abbott*, 490 U.S. 401 (1989); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

Second, although Respondents purport to hold Petitioner under color of the immigration laws, they revoked previously granted liberty without constitutionally adequate procedures. Prior to detention, Respondents permitted Petitioner to remain outside custody while participating in supervision and litigation proceedings. Petitioner remained employed, integrated into the community, and compliant with supervision requirements. Nevertheless, Respondents abruptly re-detained Petitioner during a routine reporting appointment without advance notice, neutral adjudication, individualized findings concerning danger or flight risk, determination of materially changed circumstances, or meaningful pre-deprivation process. The Fifth Amendment protects conditional liberty from arbitrary revocation. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Young v. Harper*, 520 U.S. 143, 152–53 (1997). Likewise, "[f]reedom from imprisonment" lies at the heart of liberty protected by due process. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Third, Petitioner remains unable to obtain meaningful custody review because Immigration Judges have concluded that bond jurisdiction is absent based upon DHS's classification of Petitioner under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), as an "arriving alien." This classification departs from decades of settled practice under which similarly situated individuals received custody review

under INA § 236(a). See *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018); *Guerrero Orellana v. Moniz*, No. 25-12664-PBS (D. Mass. Sept. 22, 2025); *Mendoza Gutierrez v. Baltasar*, No. 25-2720-RMR (D. Colo. Oct. 17, 2025).

Under these circumstances, Petitioner's continued detention violates the Fifth Amendment, the Immigration and Nationality Act, and the Administrative Procedure Act, and immediate restoration of Petitioner's prior release status constitutes the appropriate remedy.

2. Petitioner Mr. Moreno has lived in the United States since approximately 2024 and was detained by ICE on or about April 24, 2026, as he made his way to work. He was thereafter transferred across the country and placed in custody at the IMPERIAL REGIONAL DETENTION FACILITY.

Presently, Immigration Judges have taken the position that bond jurisdiction is absent because DHS classified Petitioner, and similarly situated individuals, under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), as "arriving aliens" allegedly subject to mandatory detention. This classification has effectively deprived Petitioner of meaningful custody review.

The application of § 235(b)(2)(A) to individuals such as Petitioner, persons physically present in the United States and arrested in the interior after prolonged residence and release, is a recent development arising from DHS policy changes and the Board of Immigration Appeals' precedential decision in *Matter of Jonathan Javier Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

Before *Yajure Hurtado*, similarly situated individuals historically received custody review under INA § 236(a). The Supreme Court has long distinguished detention of applicants for admission from detention of individuals already present in the country:

> "Section 1225 governs applicants for admission while § 1226 governs detention of aliens already present in the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).

Federal courts increasingly have rejected DHS's effort to apply § 235(b) to interior arrests and long-term residents. See *Guerrero Orellana v. Moniz*, No. 25-12664-PBS (D. Mass. Sept. 22, 2025) (recognizing DHS's new approach as contrary to decades of settled practice); *Mendoza Gutierrez v. Baltasar*, No. 25-2720-RMR (D. Colo. Oct. 17, 2025) (holding DHS lacked authority to classify similarly situated individuals as arriving aliens and ordering release pending custody proceedings).

Petitioner was arrested in Florida hundreds of miles from any port of entry. Accordingly, Petitioner plainly falls within the statutory framework of INA § 236(a), not INA § 235(b). Moreover, Respondents' present detention theory suffers from a second constitutional defect independent of statutory classification.

Prior to detention, Respondents permitted Petitioner to remain outside custody while participating in supervision and litigating immigration proceedings. Petitioner remained employed, integrated into the community, and subject to reporting requirements.

Despite that history, Respondents abruptly revoked Petitioner's liberty without advance notice, neutral adjudication, individualized findings concerning danger or flight risk, materially changed circumstances, or constitutionally adequate pre-deprivation process. Conditional liberty remains constitutionally protected liberty.

The Supreme Court recognized in *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), that released individuals retain liberty interests containing "many of the core values of unqualified liberty." The Court extended those protections to

probation in *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973), and later reaffirmed them in parole-like release programs in *Young v. Harper*, 520 U.S. 143, 152–53 (1997).

Likewise:

> "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Recently, the Central District recognized that re-detention after release may violate due process where liberty is revoked without meaningful procedures. In *Isaac Antonio Villegas Molina v. Mullin*, No. 2:26-cv-04091-MWC-SP (C.D. Cal. Apr. 23, 2026), the court ordered immediate release, restoration of prior supervision conditions, and prohibited future detention absent notice and pre-deprivation procedures.

The BIA's reinterpretation in *Yajure Hurtado* also represents an abrupt departure from longstanding practice. Agencies must provide reasoned explanation when abandoning settled positions. *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016). Courts likewise no longer extend automatic deference to agency reinterpretations. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024).

The 1997 interim regulations expressly recognized that EWIs "will be eligible for bond and bond redetermination." Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

3. Under these circumstances, Petitioner's continued detention violates the Fifth Amendment, the Immigration and Nationality Act, and the Administrative

Procedure Act. Immediate restoration of Petitioner's prior release status constitutes the appropriate remedy.

4. Petitioner challenges detention because:

(a) Respondents revoked previously granted liberty without constitutionally adequate procedures in violation of the Fifth Amendment;

(b) application of INA § 235(b)(2)(A) is ultra vires and inconsistent with statutory text and longstanding regulatory practice;

(c) continued detention without meaningful custody review violates the INA and Due Process Clause;

(d) the new DHS policy and *Matter of Yajure Hurtado* violate the APA because they represent an abrupt departure from settled practice adopted without lawful procedures.

Thus, Petitioner respectfully requests:

(1) immediate release and restoration of pre-detention supervision conditions;

(2) injunction prohibiting future re-detention absent notice, materially changed circumstances, neutral adjudication, and constitutionally adequate process;

(3) declaration that INA § 236(a), not INA § 235(b)(2)(A), governs detention;

(4) alternatively, immediate individualized custody proceedings at which the Government bears the burden of proving detention is necessary.

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JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241, § 1331, and § 1651, because Petitioner is "in custody in violation of the Constitution or laws or treaties of the United States." Venue lies in the Central District of California under 28 U.S.C. § 1391(e) because Petitioner is detained at Adelanto and the responsible ICE officials reside in this district. This petition challenges only the legality of custody, not any final order of removal, and is therefore not barred by 8 U.S.C. § 1252(a)(5) or § 1252(b)(9). *See Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Nielsen v. Preap*, 586 U.S. 392 (2019); *Crespin De Paz v. Noem*, No. 2:25-cv-06649, slip op. at 5 (C.D. Cal. Oct. 10, 2025).

PARTIES

Petitioner Giron-Contreras is a noncitizen currently detained by the U.S. Department of Homeland Security ("DHS") through U.S. Immigration and Customs Enforcement ("ICE") at the Imperial ICE Processing Center in Imperial, California. Petitioner has resided in the United States for many years and is seeking release from custody pending resolution of his immigration proceedings.

Respondent MARKWAYNE MULLIN is the Secretary of the United States Department of Homeland Security ("DHS"). As Secretary, Respondent NOEM exercises ultimate authority over DHS and its component agencies, including U.S. Customs and Border Protection ("CBP") and U.S. Immigration and Customs

Enforcement ("ICE"), and is responsible for the administration and enforcement of the Immigration and Nationality Act ("INA"). He is sued in his official capacity.

Respondent RODNEY S. SCOTT is the Commissioner of U.S. Customs and Border Protection ("CBP"), a component agency of DHS. In this capacity, Respondent SCOTT is responsible for the policies, practices, and operations of CBP, including the apprehension and initial processing of individuals alleged to be inadmissible under the INA. He is sued in his official capacity.

Respondent GREGORY J. ARCHAMBEAULT, is the Field Office Director for the San Diego Field Office of U.S. Immigration and Customs Enforcement ("ICE"), a component agency of DHS. In this role, Respondent Archambault exercises direct supervisory authority over ICE Enforcement and Removal Operations ("ERO") officers responsible for the detention, transfer, and release of individuals within this District, including those held at the Imperial ICE Processing Center. He is the immediate custodian of Petitioner and is sued in his official capacity.

Respondent Doug Glen is the Special Agent in Charge for the San Diego office of Homeland Security Investigations ("HSI"), a component division of ICE within DHS. In this capacity, Respondent Wang oversees investigations and enforcement operations in the San Diego area that lead to the apprehension and referral of individuals to ERO for detention. He is sued in his official capacity.

Respondent, JEREMY CASEY, in his official capacity as Warden of Imperial Regional Detention Facility. In this capacity Respondent Casey oversees the Imperial Regional Detention Facility where Petitioner is currently housed. He is sued in his official capacity.

Each Respondent is an officer or employee or agent or subcontractor of the United States acting under color of federal law and within the scope of their respective official duties. Collectively, Respondents have legal custody over Petitioner and are responsible for the policies, practices, acts, and omissions giving rise to this Petition.

FACTUAL BACKGROUND

Petitioner entered the United States in approximately 2023 and has continuously resided in the United States since that time. He is presently detained at IMPERIAL REGIONAL DETENTION FACILITY under Alien Registration Number [redacted] Petitioner resides in Miami, Florida. Mr. Moreno is a single man, with no children. He first entered the United States in 2024 by presenting himself at the United States border and applying for asylum. He was detained for approximately two months before being released. Upon his release he went to Miami, Florida to live with extended family. He was paced on Intensive Supervision Appearance Program (ISAP). ICE required that Mr. Moreno wear an ankle monitor and check-in with a local ICE office. At first, he was required to

check-in on a monthly basis. Mr. Moreno never missed a date and was always in compliance. As a result, ICE loosened its restrictions and removed Mr. Moreno's ankle monitor and allowed him to appear for his check-ins once per year. Mr. Moreno appeared before the Immigration Court with counsel various times without fail. Mr. Moreno was arrested by ICE in Florida as he made his way to work. There were no other criminal acts or violations that would have provoked an arrest by ICE. ICE previously issued a Notice to Appear charging Petitioner as inadmissible pursuant to INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), alleging presence in the United States without admission or parole.

Notwithstanding Petitioner's release history and supervision compliance, Respondents revoked Petitioner's liberty without providing:

(a) advance notice;

(b) written allegations;

(c) disclosure of evidence;

(d) neutral adjudication;

(e) opportunity to respond;

(f) individualized findings concerning danger;

(g) individualized findings concerning flight risk; or

(h) determination of materially changed circumstances.

Petitioner remained employed, compliant, and integrated into the community immediately before detention.

Respondents identified no intervening misconduct, absconding, danger determination, flight finding, supervision violation, or materially changed circumstance justifying revocation of liberty.

Surreptitiously, Respondents reversed their prior determination permitting release without identifying any individualized basis for detention.

The Supreme Court recognizes that conditional liberty remains constitutionally protected liberty. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Likewise, "freedom from imprisonment" lies at the core of liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

In aggravation, following his unexpected detention, Petitioner experienced substantial restrictions on communication. Petitioner was allegedly denied meaningful contact with family members and counsel during approximately the first three days of detention and thereafter reportedly received only one brief attorney communication.

These restrictions impaired Petitioner's ability to challenge detention and obtain meaningful access to counsel during the critical initial period of confinement. See *Bounds v. Smith*, 430 U.S. 817, 821–22 (1977); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

Petitioner thereafter sought custody review before the Immigration Court. However, the Adelanto Immigration Court has determined that it lacks bond jurisdiction.

The Immigration Court relied upon *Matter of Jonathan Javier Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), DHS guidance extending INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), to individuals already present in the United States, and *Maldonado Bautista v. Santacruz*, Case No. 5:25-cv-01873-SSS-BFM.

As a result, Petitioner remains detained without any individualized custody determination despite his release history, employment, community integration, supervision compliance, and absence of danger.

Before *Matter of Yajure Hurtado*, similarly situated individuals historically received custody review under INA § 236(a), 8 U.S.C. § 1226(a). Petitioner was arrested in Los Angeles, California, hundreds of miles from any port of entry. Petitioner therefore remains detained without meaningful custody review while challenging the legality of detention itself.

Under these circumstances, Petitioner seeks restoration of the *status quo ante*, namely immediate release under the supervision conditions existing before April 16, 2026, together with prospective relief prohibiting future re-detention absent constitutionally adequate procedures.

LEGAL CLAIMS

A. This Court Has Jurisdiction

As held in *Crespin De Paz and Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024), a habeas petition seeking a bond hearing lies "within the core of habeas" jurisdiction under § 2241. This Court possesses jurisdiction under 28 U.S.C. §§ 2241 and 1331 because Petitioner is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).

Further, habeas corpus remains the traditional vehicle to challenge unlawful executive detention. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

The Ninth Circuit recently reaffirmed that detention claims seeking custody review remain within the "core of habeas." *Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024); *Crespin de Paz v. Garland*, slip op. at 7–8.

Petitioner challenges present detention only. This Petition does not challenge removability or any final order of removal. The claims are collateral to removal proceedings and therefore are not barred by 8 U.S.C. §§ 1252(g) or 1252(b)(9).

No administrative tribunal presently possesses authority to provide meaningful relief. The Immigration Court has concluded it lacks custody jurisdiction.

Consequently, habeas corpus remains Petitioner's sole avenue for relief.

B. Re-Detention Without Constitutionally Adequate Process Violates The Fifth Amendment

The Fifth Amendment applies to noncitizens physically present in the United States. *Landon v. Plascencia*, 459 U.S. 21, 32–34 (1982). Freedom from detention occupies the highest constitutional status:

> "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

This case concerns revocation of previously granted liberty. Respondents previously permitted Petitioner to remain outside detention while participating in supervision and litigating proceedings. Petitioner remained employed, compliant, and integrated into the community.

Respondents nevertheless revoked liberty during a routine reporting appointment without:

(a) advance notice;

(b) neutral adjudication;

(c) individualized findings concerning danger;

(d) individualized findings concerning flight risk;

(e) materially changed circumstances; or

(f) constitutionally adequate pre-deprivation procedures.

Still, Conditional liberty remains protected liberty. In *Morrissey v. Brewer*, the Supreme Court held that released persons retain liberty containing "many of the core values of unqualified liberty." 408 U.S. 471, 482 (1972).

The Court extended these protections to probation in *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973), and later reaffirmed them in parole-like release programs in *Young v. Harper*, 520 U.S. 143, 152–53 (1997).

The process constitutionally due is governed by the balancing framework articulated in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), which requires courts to evaluate: "the private interest that will be affected by the official action"; "the risk of an erroneous deprivation" and the probable value of additional safeguards; and the Government's interest, including the administrative burden of additional procedures.

Application of the *Mathews* factors strongly favors Petitioner.

First, Petitioner's liberty interest is exceptionally weighty. This case concerns physical detention and the revocation of previously granted liberty after release into the community. The Supreme Court has repeatedly recognized that freedom from physical restraint occupies the highest constitutional status. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at

the heart of the liberty protected by the Due Process Clause."); *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (describing freedom from detention as among the "most elemental of liberty interests"). Petitioner had already been released, remained employed, participated in supervision, attended reporting appointments, and remained integrated into the community. Thus, this case concerns not merely initial detention, but the deprivation of existing liberty.

Second, the risk of erroneous deprivation was extraordinarily high because Respondents provided no meaningful procedural safeguards before revoking liberty. Petitioner received no advance notice, no statement of allegations, no disclosure of evidence, no neutral adjudication, no individualized findings concerning danger or flight risk, and no opportunity to respond before detention occurred. The Supreme Court has long recognized that due process ordinarily requires the opportunity to be heard "at a meaningful time and in a meaningful manner." *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972). Likewise, pre-deprivation procedures remain the constitutional default where advance process is feasible. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985). Where the Government possesses the ability to provide advance procedures, it ordinarily must do so before liberty is taken. *United States v. James Daniel Good Real Property*, 510 U.S. 43, 53 (1993).

Third, the governmental burden associated with additional procedures is minimal. Custody determinations are routine within the immigration system. Immigration Courts regularly conduct bond proceedings, custody reviews, and individualized detention determinations. Requiring notice and minimal pre-deprivation review therefore imposes little administrative burden compared to the substantial liberty interests at stake.

Recently, the Central District applied these same principles in the immigration re-detention context and concluded that continued detention without meaningful pre-deprivation procedures violated due process. In *Isaac Antonio Villegas Molina v. Mullin*, No. 2:26-cv-04091-MWC-SP (C.D. Cal. Apr. 23, 2026), the court ordered immediate release, restoration of prior supervision conditions, and prospective procedural protections after concluding that the Government's interest in detention without process was slight compared to the petitioner's liberty interests.

Accordingly, all three *Mathews* factors weigh overwhelmingly in Petitioner's favor and establish that Respondents' revocation of previously granted liberty without meaningful procedures violated the Fifth Amendment.

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C. This Case Is Governed By *Mathews* And *Zinermon*, Not *Parratt*

Respondents may contend that any procedural deficiency associated with Petitioner's detention can be remedied through later custody proceedings or post-deprivation review.

That argument fails because it mischaracterizes both the nature of the deprivation and the governing constitutional framework.

The Supreme Court's decisions in *Parratt v. Taylor*, 451 U.S. 527 (1981), and *Hudson v. Palmer*, 468 U.S. 517 (1984), apply only in limited circumstances where the deprivation results from random and unauthorized conduct such that pre-deprivation procedures are impracticable or impossible.

The present case bears none of those characteristics. Instead, the deprivation at issue was foreseeable, deliberate, and carried out by officials exercising delegated authority within an established detention system. The Supreme Court expressly rejected application of the *Parratt/Hudson* framework where officials possess authority to implement procedural safeguards and the deprivation itself is foreseeable. In *Zinermon v. Burch*, the Court explained that post-deprivation remedies do not suffice where the state delegates power to officials and "the deprivation is foreseeable and the State could have provided pre-deprivation process." 494 U.S. 113, 136–39 (1990).

Likewise, *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 436 (1982), held that post-deprivation procedures cannot excuse constitutional violations arising from established governmental procedures or institutional decision-making. Those principles apply directly here.

Petitioner's detention did not arise from spontaneous misconduct, an emergency circumstance, or some unforeseeable event. Respondents detained Petitioner during a routine ICE street stop after previously allowing him to remain in the community while participating in supervision and litigating proceedings. The detention therefore occurred within a structured administrative framework and followed a planned enforcement action. Further, because the detention was foreseeable and administratively pre-hearable, Respondents possessed ample opportunity to provide constitutionally adequate procedures before revoking liberty.

Respondents could have provided notice, but they did not. Respondents could have articulated the basis for detention, they did not. Respondents could have afforded individualized review concerning danger, flight risk, or changed circumstances, this process was not afforded.

Under these circumstances, the governing framework is not *Parratt* or *Hudson*, but rather the ordinary due process principles articulated in *Mathews v.*

Eldridge, 424 U.S. 319 (1976), *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), *Logan*, and *Zinermon*.

Indeed, *Loudermill* reaffirmed that pre-deprivation process remains the constitutional default where advance procedures are feasible. 470 U.S. at 542. Here, advance procedures were entirely feasible. Consequently, Respondents cannot rely upon later custody proceedings to cure a deprivation that should never have occurred without meaningful process in the first instance.

D. Respondents Identified No Material Change Justifying Detention

Respondents' abrupt revocation of Petitioner's liberty is particularly arbitrary because they identified no materially changed circumstance justifying detention.

Prior to detention, Petitioner remained employed, integrated into the community, compliant with supervision, and present for reporting obligations. Petitioner appeared for ICE check-ins, remained subject to supervision, and continued participating in proceedings.

Respondents identified no intervening misconduct, no supervision violation, no absconding, and no individualized determination that Petitioner presented either a danger to the community or a flight risk.

Indeed, nothing in the record suggests Petitioner's circumstances materially changed between the period during which Respondents permitted release and the later decision to revoke that liberty.

Immigration custody determinations have historically required individualized consideration. See *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (identifying individualized danger and flight considerations governing custody). Likewise, immigration custody reconsideration historically depended upon changed circumstances rather than arbitrary reversal. *Matter of Sugay*, 17 I. & N. Dec. 637 (BIA 1981).

The absence of any identified change in circumstances is significant because Respondents previously determined that Petitioner could remain at liberty while participating in supervision.

Respondents have never explained what changed. They have identified no new facts, no newly discovered evidence, no misconduct, and no intervening event warranting detention. Instead, the record presently reflects only an unexplained reversal of a previously granted liberty determination.

Such unexplained reversals constitute precisely the type of arbitrary governmental action prohibited by the Due Process Clause.

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E. Post-Deprivation Review Cannot Cure The Harm

Respondents may contend that any procedural defect associated with detention can be remedied through future custody proceedings. That argument misunderstands both the nature of the injury and the constitutional violation.

Petitioner does not merely challenge the absence of a bond hearing. Petitioner challenges the deprivation of liberty itself.

The Supreme Court recognized in *Mathews v. Eldridge*, 424 U.S. 319, 331 (1976), that post-deprivation remedies do not necessarily satisfy due process where they cannot provide complete relief. Likewise, *Zinermon v. Burch* explained that the constitutional injury becomes complete once liberty is wrongfully taken. 494 U.S. 113, 125 (1990).

That principle applies directly here. Petitioner already lost liberty. Petitioner already suffered detention. Petitioner already experienced separation from community, interruption of employment, restrictions on communication, and confinement. Those injuries cannot later be undone through delayed custody proceedings. The Ninth Circuit recognizes that immigration detention itself inflicts irreparable injury. *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

Likewise, the Central District recently concluded that post-deprivation proceedings could not adequately remedy immigration re-detention after liberty had already been revoked and therefore ordered immediate release and restoration

of prior supervision conditions. *Isaac Antonio Villegas Molina v. Mullin*, No. 2:26-cv-04091-MWC-SP (C.D. Cal. Apr. 23, 2026).

Under these circumstances, immediate restoration of the status quo ante constitutes the proper remedy.

F. Petitioner's Detention Is Governed by Ina § 236(A), Not Ina § 235(B)(2)(A)

Respondents further unlawfully classified Petitioner under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), thereby depriving him of meaningful custody review.

Federal courts and the Supreme Court have long distinguished detention of applicants for admission from detention of individuals already physically present in the country.

As the Supreme Court explained in *Jennings v. Rodriguez*, INA § 235 governs applicants for admission while INA § 236 governs detention of individuals already present in the United States. 583 U.S. 281, 288 (2018).

Petitioner was arrested in Los Angeles, California, hundreds of miles from any port of entry after residing in the United States and participating in supervision. Thus, Petitioner bears none of the characteristics traditionally associated with applicants for admission detained under § 235. Respondents' present interpretation also conflicts with decades of settled regulatory practice.

The 1997 interim regulations expressly provided that individuals present without admission remained eligible for bond and bond redetermination. Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

Federal courts increasingly reject DHS's effort to apply INA § 235 to long-term residents arrested in the interior. See *Guerrero Orellana v. Moniz*, No. 25-12664-PBS (D. Mass. Sept. 22, 2025); *Mendoza Gutierrez v. Baltasar*, No. 25-2720-RMR (D. Colo. Oct. 17, 2025).

Thus, Petitioner's detention properly falls under INA § 236(a).

G. *Matter Of Yajure Hurtado* And The New DHS Policy Violate The Administrative Procedure Act

The DHS reinterpretation embodied in *Matter of Jonathan Javier Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), represents a substantive departure from decades of settled practice.

Before *Yajure Hurtado*, individuals situated similarly to Petitioner routinely received custody review under INA § 236(a). The agency's new interpretation abruptly reverses that historical practice without congressional amendment, notice-and-comment rulemaking, or adequate explanation.

Agencies may not simply discard settled interpretations without reasoned analysis.

The Supreme Court explained in *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016), that agencies abandoning prior positions must provide reasoned explanation for the change.

Likewise, courts no longer extend automatic deference to agency reinterpretations of statutes. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). The reinterpretation therefore exceeds statutory authority and violates the Administrative Procedure Act, 5 U.S.C. § 706.

H. Equitable Factors and Conditions of Confinement Further Support Immediate Relief

Equitable considerations further support immediate intervention. Petitioner remains confined at IMPERIAL REGIONAL DETENTION FACILITY under allegedly overcrowded conditions while experiencing restricted communication and limited attorney access.

Petitioner was allegedly denied meaningful contact with family and counsel during approximately the first three days of detention and thereafter received only limited attorney communication.

These restrictions further impaired Petitioner's ability to challenge detention during the critical early stages of confinement. Moreover, no alternative tribunal presently possesses authority to provide meaningful relief.

The Immigration Court within this jurisdiction have concluded that it lacks custody jurisdiction. Petitioner therefore remains detained without any meaningful avenue for review while the constitutional injury continues.

Under these circumstances, continued detention is not merely unlawful, it presents ongoing and irreparable harm. Petitioner cannot wait. Immediate restoration of the pre-detention status quo remains the only adequate remedy.

Because Respondents revoked previously granted liberty without notice, hearing, neutral review, or identification of materially changed circumstances, the constitutional injury inheres in the detention itself. The proper remedy is restoration of the status quo ante—namely immediate release under Petitioner's prior supervision conditions—while preserving Respondents' ability to pursue future detention through constitutionally adequate procedures.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the Petition and enter judgment as follows::

1. Issue a Writ of Habeas Corpus declaring that Petitioner's present detention violates the Fifth Amendment, the Immigration and Nationality Act, and the Administrative Procedure Act;
2. Declare that Respondents unlawfully revoked Petitioner's previously granted liberty without constitutionally adequate procedures;

3. Declare that Petitioner's detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), rather than INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A);
4. Declare that Respondents' application of INA § 235(b)(2)(A) to Petitioner is unlawful and exceeds statutory authority;
5. Order Petitioner immediately released from custody;
6. Restore Petitioner to the supervision conditions existing immediately before his detention on April 16, 2026, including any prior reporting or supervision requirements;
7. Enjoin Respondents from re-detaining Petitioner absent:

   (a) advance written notice;

   (b) disclosure of asserted grounds;

   (c) a showing of materially changed circumstances;

   (d) individualized findings concerning danger or flight risk;

   (e) constitutionally adequate process before a neutral adjudicator;
8. Order that any future detention determination require Respondents to establish, by clear and convincing evidence, that detention rather than less restrictive alternatives is necessary;
9. Alternatively, if the Court declines immediate release, order Respondents to provide Petitioner an immediate individualized custody proceeding before a neutral Immigration Judge within seven (7) days, at which:

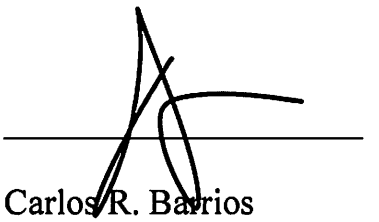
(a) Respondents bear the burden of proving danger or flight risk by clear and convincing evidence;

(b) the Immigration Judge considers less restrictive alternatives to detention;

(c) automatic release shall occur if no custody proceeding is timely provided;

10. Award all further relief this Court deems just and proper.

Date: May 27, 2026



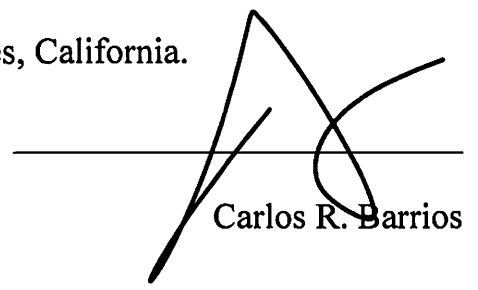
Carlos R. Barrios

VERIFICATION BY PETITIONER PURSUANT TO 28 U.S.C. § 2242

I, **Carlos Barrios** am submitting this verification on behalf of JOSE MARIA MORENO, who is currently detained by the U.S. Department of Homeland Security at the IMPERIAL REGIONAL DETENTION FACILITY in Adelanto, California. Petitioner is being held under conditions that severely restrict or prevent meaningful communication with the outside world. As a result, he is unable to review or sign this petition personally or to prepare and file it on his own behalf.

I have communicated with Petitioner to the extent possible and have obtained the factual information contained in this Petition from my direct knowledge, records, and reliable sources. I hereby verify that, to the best of my knowledge and belief, the factual statements contained in the attached Petition for Writ of Habeas Corpus are true and correct, and that I could testify to those facts if called upon to do so.

Executed this 27th day of May, 2026, at Los Angeles, California.



Carlos R. Barrios