UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Gerardo Jose Nunez-Ramirez *Petitioner,* v. Sixto Marrero, Warden of Imperial Regional Detention Facility; Markwayne Mullin, Secretary, U.S. Department of Homeland Security, Gregory J. Archambeault, El Centro Field Office Director of Enforcement and Removal Operations, El Centro Field Office,; Todd M. Lyons, Director of Immigration and Customs Enforcement Immigration and Customs Enforcement; U.S. Department of Homeland Security; Todd Blanche, U.S. Attorney General; Executive Office for Immigration Review. *Respondents.*	Case No. '26CV3276 LL GC **PETITION FOR A WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Gerardo Jose Nunez-Ramirez is in the custody of U.S. Immigration and Customs Enforcement and brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge the legality of his ongoing civil immigration detention.

2. Petitioner seeks relief from detention that the Department of Homeland Security has imposed without statutory authority. The government is detaining Petitioner under a theory that treats him as subject to mandatory detention as though he were a newly arriving noncitizen "seeking admission," despite the absence of any lawful basis for such treatment. That detention theory has been rejected by a federal district court in a certified nationwide class action, and Petitioner is a member of the certified class.

3. Because the challenged detention policy has been adjudicated unlawful and the government lacks authority to detain Petitioner under that theory, his continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

4. Petitioner therefore seeks issuance of the writ of habeas corpus ordering his immediate release from custody. In the alternative, Petitioner seeks an order requiring a prompt bond hearing pursuant to 8 U.S.C. § 1226(a), at which the government bears the burden to justify continued detention.

5. Petitioner submitted an asylum application with USCIS prior to being detained by U.S. Immigration and Customs Enforcement.

JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in federal custody and challenges the legality of his present detention as violating the Constitution and laws of the United States. Jurisdiction is also proper under 28 U.S.C. § 1331 and

Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause), which preserve the availability of habeas corpus to test the lawfulness of executive detention. This Court has authority to grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

7. Jurisdiction is proper notwithstanding 8 U.S.C. §§ 1252(b)(9) and 1252(g) because Petitioner does not seek review of removal proceedings or any final order of removal, but challenges only the statutory and constitutional authority for his present detention. See *Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir. 2006). Jurisdiction further lies in this Court because Petitioner is detained at Imperial Regional Adult Det F/K/A Imperial Regional Detention Facility in Calexico, California, within the Southern District of California, and his immediate custodian are subject to the Court's authority. See *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973).

VENUE

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 2241(a) and 1391(e) because Petitioner is currently detained at Imperial Regional Adult Det F/K/A Imperial Regional Detention Facility in Calexico, California, within the Southern District of California, and Respondents exercise custody and control over Petitioner within this District through his immediate custodian.

9. Venue is independently proper under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), which holds that a habeas petition may be brought in the district where the petitioner is confined and where the custodian is subject to the court's jurisdiction.

10. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers or agencies of the United States acting in their official capacities, and a substantial part of the events and omissions giving rise to Petitioner's detention-only claims occurred within this District, including Petitioner's arrest, detention, and continued confinement.

REQUIREMENTS OF 28 U.S.C. § 2243

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

12. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

13. Petitioner Gerardo Jose Nunez-Ramirez is a native and citizen of Venezuela who is currently detained by the Department of Homeland Security.

14. Sixto Marrero is the Warden at Imperial Regional Adult Det F/K/A Imperial Regional Detention Facility in Calexico, California, located at 1572 Gateway Road, Calexico, CA 92231 in his official capacity.

15. Respondent Gregory J. Archambeault is the Immigration and Customs Enforcement Field Office Director for the El Centro Field Office, which has responsibility over immigration detention facilities in the Southern District of California, including Imperial

Regional Adult Det F/K/A Imperial Regional Detention Facility, Calexico, California. As Field Office Director, Respondent Archambeault is a legal custodian of Petitioner and is responsible for Petitioner's detention. He is sued in his official capacity.

16. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs Enforcement. As the head of ICE, he is responsible for policies and decisions governing the detention of noncitizens, including Petitioner. He is a legal custodian of Petitioner and is sued in his official capacity

17. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security. He is responsible for the administration and enforcement of the Immigration and Nationality Act and oversees Immigration and Customs Enforcement, the agency responsible for Petitioner's detention. He has ultimate custodial authority over Petitioner and is sued in his official capacity

18. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Offices for Immigration Review and the immigration court system are component agencies. He is sued in his official capacity.

FACTUAL BACKGROUND

19. Petitioner Gerardo Jose Nunez-Ramirez is a native and citizen of Venezuela.

20. Petitioner entered the United States without inspection on or about August 30, 2021.

21. Petitioner was not apprehended at the border when he entered the United States in 2021.

22. From 2021 to 2026, Petitioner lived in the interior of the United States for more than five years without contact with immigration authorities.

23. On or about April 30, 2026, during a traffic stop, Petitioner was detained by U.S. Immigration and Customs Enforcement ("ICE").

24. Following his arrest, the Department of Homeland Security issued Petitioner a Notice to Appear, charging him as a noncitizen who entered the United States without being admitted or paroled pursuant to INA § 239(a), 8 U.S.C. § 1229(a), and alleging inadmissibility under INA § 212(a)(6)(A)(i). Petitioner does not seek review of the merits of these charges in this habeas proceeding and INA § 212(a)(7)(A)(i)(I) for lacking a valid entry document at the time of application for admission. Petitioner does not seek review of the merits of these charges in this habeas proceeding

25. Petitioner is currently detained at Imperial Regional Adult Det F/K/A Imperial Regional Detention Facility, Calexico, California. Prior to his transfer to California, Petitioner was detained at the Baker County Detention Center in Macclenny, Florida.

26. Prior to his detention, Petitioner was employed as a mechanic and served as the sole financial provider for his household which includes his wife and two minor children.

27. Petitioner sought a bond determination pursuant to the nationwide class action *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz,* No.5:25-CV-01873-SSM-BFM,— F.Supp. 3d —, 2025 WL 3289861 (C.D. Cal Nov. 20, 2025), prior to entry of final judgment in that case. An Immigration Judge denied bond on December 11, 2025. Final judgment certifying the nationwide class was entered on December 18, 2025.

28. Petitioner falls within the certified nationwide class in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*

29. Petitioner remains in immigration custody under Respondents' current detention

position. Respondents have subjected Petitioner to mandatory detention and assert that his detention is governed by INA § 235(b), 8 U.S.C. § 1225(b).

EXHAUSTION OF REMEDIES

30. No statutory exhaustion requirement applies to Petitioner's habeas petition challenging the legality of his immigration detention and the constitutionality of the procedures used to impose and maintain that detention. Nor does the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" apply here, because there are no prescribed administrative remedies available to Petitioner. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

31. The Department of Homeland Security has taken the position that noncitizens who entered the United States without inspection are subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). The Executive Office for Immigration Review has adopted and enforced that position. In a precedential decision, the Board of Immigration Appeals held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 221 (BIA 2025).

32. Where the agency has made clear that administrative review cannot provide relief, exhaustion is not required because further pursuit of administrative remedies would be futile. Federal courts have repeatedly waived exhaustion in precisely these circumstances. See, e.g., *Singh v. Lewis*, No. 4:25-CV-96-RGJ, 2025 WL 2699219, at 3 (W.D. Ky. Sept. 22, 2025) (waiving exhaustion where the government's § 1225 position was fixed and applied at all levels within DHS); *Lopez-Campos v. Raycraft*, No.

2:25-CV-12486, 2025 WL 2496379, (E.D. Mich. Aug. 29, 2025) (waiving exhaustion where administrative review could not provide timely or effective relief).

33. Exhaustion is independently excused because neither Immigration Judges nor the Board of Immigration Appeals have authority to adjudicate the constitutional claims presented here. See *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020) (holding that Immigration Judges and the BIA lack authority to consider the constitutionality of the statutes or regulations they administer); Matter of C-, 20 I. & N. Dec. 529, 532 (BIA 1992); see also *Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that the BIA lacks jurisdiction to adjudicate constitutional issues).

34. Because the agency has conclusively determined that Petitioner is categorically ineligible for bond and has denied relief on jurisdictional grounds, there are no administrative remedies that Petitioner could exhaust before seeking habeas relief.

LEGAL FRAMEWORK

COUNT I

Petitioner Is a Member of the Certified Nationwide Class in *Lazaro Maldonado Bautista et Al. V. Santacruz*, No. 5:25-cv-01873-sss-bfm (C.d. Cal. Nov. 2025).

35. On July 8, 2025, the Department of Homeland Security issued a notice titled *Interim Guidance Regarding Detention Authority for Applicants for Admission*, asserting that certain noncitizens arrested within the United States and charged as inadmissible should be treated as "applicants for admission" under 8 U.S.C. § 1225(b)(2)(A) and subjected to mandatory detention rather than detention under 8 U.S.C. § 1226(a). In *Lazaro Maldonado Bautista et al. v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), the district court held that the Interim Guidance was unlawful under the Administrative

Procedure Act. On November 25, 2025, the court certified a nationwide class and granted declaratory relief. On December 18, 2025, the court entered final judgment. *Bautista*, ECF No. 94. The court declared that class members are detained pursuant to 8 U.S.C. § 1226(a), are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and are entitled to consideration for release by immigration officers and, if not released, a custody redetermination hearing before an Immigration Judge. The court further vacated the Interim Guidance as contrary to law.

36. The court defined the certified nationwide class as consisting of: "All noncitizens in the United States without lawful status who (1) have entered the United States without inspection; (2) were not apprehended upon arrival; and (3) were not subject to detention under 8 U.S.C. § 1226(c), 8 U.S.C. § 1225(b)(1), or 8 U.S.C. § 1231 at the time the Department of Homeland Security made an initial custody determination."

37. Petitioner falls squarely within this definition, as demonstrated by the undisputed record facts.

A. Petitioner Entered the United States Without Inspection

38. The first element of the certified class definition requires that the individual entered the United States without inspection. Petitioner Gerardo Jose Nunez-Ramirez is a native and citizen of Venezuela who entered the United States in or about August 30, 2021. The Notice to Appear issued by the Department of Homeland Security reflects that Petitioner entered the United States without being admitted or paroled. Based on the administrative record, Petitioner satisfies the first element of the class definition.

B. Petitioner Was Not Apprehended Upon Arrival

39. The second element of the certified class definition requires that the individual was not

apprehended upon arrival. Petitioner was not detained, inspected, or encountered by immigration authorities at or near the time of his entry. After entering the United States in 2021, Petitioner resided in the interior of the country for more than five years without contact with immigration enforcement.

40. Petitioner's first encounter with Immigration and Customs Enforcement occurred on April 30, 2026, when he was arrested in Florida. That arrest occurred years after Petitioner's entry and was unrelated to any border inspection or admission process. Based on the record, Petitioner was not apprehended upon arrival and satisfies the second element of the class definition.

C. At the Time of DHS's Custody Determination, Petitioner Was Not Subject to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231

41. The third element of the certified class definition requires that, at the time the Department of Homeland Security made its initial custody determination, the individual was not subject to detention under 8 U.S.C. § 1226(c), 8 U.S.C. § 1225(b)(1), or 8 U.S.C. § 1231. Based on the administrative record, Petitioner was not subject to detention under any of these provisions at the time DHS made its custody determination.

42. First, Petitioner was not subject to mandatory detention under 8 U.S.C. § 1226(c). DHS has not alleged that Petitioner falls within any category triggering mandatory detention under that provision.

43. Second, Petitioner was not detained under 8 U.S.C. § 1225(b)(1). Petitioner was not apprehended at or near the border, was not placed in expedited removal proceedings, and was not subject to any inspection- or credible-fear-based detention process. The record reflects an interior arrest followed by standard removal proceedings, not

detention under section 1225(b)(1).

44. Third, Petitioner was not detained under 8 U.S.C. § 1231. Petitioner does not have a final order of removal, and DHS has not invoked post-final-order detention authority.

45. Accordingly, at the time DHS made its initial custody determination, Petitioner was not subject to detention under 8 U.S.C. § 1226(c), 8 U.S.C. § 1225(b)(1), or 8 U.S.C. § 1231. Based on the record, Petitioner satisfies the third element of the certified class definition

D. As a Class Member, Petitioner's Continued Detention Under 8 U.S.C. § 1225(b) Is Unlawful, and Habeas Relief Is Warranted

46. Because Petitioner satisfies each element of the certified class definition, the final judgment in *Lazaro Maldonado Bautista et al. v. Santacruz* governs the legality of his detention. That judgment declares that class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2). That declaration applies to Petitioner as a member of the certified class. Respondents' continued reliance on section 1225(b) to justify Petitioner's detention is inconsistent with the classwide judgment.

47. Courts in this District have enforced the *Maldonado Bautista* judgment through habeas relief where DHS has continued to detain class members under the rejected mandatory-detention theory. For example, in *Reyes Benitez v. Noem*, No. 3:25-cv-03298 (S.D. Cal. Dec. 12, 2025), the court granted habeas relief after recognizing the petitioner's membership in the *Maldonado Bautista* class. Similarly, in *Ramirez Caracosa v. Noem*, No. 3:25-cv-03446 (S.D. Cal. Jan. 5, 2026), and *Jauregui Quintero v. Noem*, No. 3:25-cv-03769 (S.D. Cal. Jan. 2, 2026), the courts ordered relief under 8

U.S.C. § 1226(a) after determining that the petitioners were class members entitled to bond consideration under the final judgment. Courts have reached the same conclusion in additional cases where DHS continued to rely on section 1225(b) despite the vacated policy, confirming that individual habeas proceedings are an appropriate mechanism to enforce the classwide judgment.

48. On this record, release is the appropriate form of relief. Petitioner previously sought a bond hearing under the *Maldonado Bautista* framework, but the Immigration Judge declined to exercise jurisdiction based on DHS's continued classification of Petitioner as an "applicant for admission" subject to mandatory detention under section 1225(b). That ruling demonstrates that, so long as Respondents maintain their rejected statutory position, referral for a bond hearing would not provide effective relief.

49. The writ of habeas corpus exists to secure release from unlawful custody. Petitioner's continued detention rests on a detention theory that has been declared unlawful as applied to members of the certified class. Under these circumstances, habeas relief directing release is warranted to remedy the ongoing statutory violation.

50. Petitioner's individual circumstances further support release. The administrative record reflects that Petitioner is not an aggravated felon and was employed as a construction worker prior to detention. He served as the sole financial provider for his family.

51. For these reasons, Petitioner requests that the Court recognize his membership in the certified nationwide class, apply the final judgment in *Lazaro Maldonado Bautista et al. v. Santacruz* to his detention, and grant the writ of habeas corpus ordering his release from immigration custody. In the alternative, Petitioner requests an order directing a prompt custody redetermination hearing under 8 U.S.C. § 1226(a).

COUNT II

Petitioner's Detention Is Governed by 8 U.S.C. § 1226(a), Not § 1225(b)

52. Independently of the class-based claim set forth above, Petitioner challenges the statutory basis for his detention and contends that his custody must be evaluated under the detention authority that corresponds to his procedural posture.

53. Civil immigration detention must be authorized by statute, and detention that exceeds statutory authorization may raise serious constitutional concerns. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Supreme Court has made clear that detention authority in the immigration context must remain tethered to the statutory framework Congress enacted. Id. Where the government fails to identify detention authority that corresponds to the noncitizen's procedural posture at the time detention is imposed, continued custody exceeds statutory authorization and is subject to habeas review. Id.; *Nadarajah v. Gonzales*, 443 F.3d 1069, 1079–80 (9th Cir. 2006).

54. The Immigration and Nationality Act ("INA") does not confer a single, interchangeable detention power. Instead, Congress created distinct detention regimes that turn on a noncitizen's procedural posture and the stage of the removal process at which the government encounters the individual.

55. As relevant here, the INA establishes three principal detention frameworks, each triggered by specific statutory conditions and applicable to defined categories of noncitizens.

56. First, 8 U.S.C. § 1226 governs the arrest and detention of noncitizens already present in the United States and placed in removal proceedings under 8 U.S.C. § 1229a. Detention under § 1226(a) is discretionary and expressly authorizes release on bond or conditions

following an individualized custody determination. 8 U.S.C. § 1226(a); 8 C.F.R. §§1003.19(a), 1236.1(d). Mandatory detention under § 1226(c) applies only to a narrowly defined category of noncitizens with specified criminal convictions.

57. Second, 8 U.S.C. § 1225 governs the inspection and initial detention of individuals seeking admission at the Nation's borders and ports of entry. Section 1225(b)(1) addresses expedited removal and credible-fear processing for certain arriving individuals, while § 1225(b)(2) governs detention of certain applicants for admission pending inspection-related proceedings. The text and structure of § 1225 reflect Congress's focus on border and inspection-based encounters.

58. Third, 8 U.S.C. § 1231 governs detention following the entry of a final order of removal. Respondents do not invoke § 1231 here, and the record does not support its application.

59. The Supreme Court has reaffirmed this statutory structure. In *Jennings v. Rodriguez*, 583 U.S. 281, 288–96 (2018), the Court explained that §§ 1225 and 1226 apply at different stages of the removal process and are triggered by statutory posture rather than enforcement preference. Section 1225 governs detention during the inspection of noncitizens seeking admission, while § 1226 governs detention of noncitizens pending removal proceedings after they have entered the United States.

60. Respondents assert that Petitioner is subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b), based on the allegation in the Notice to Appear that he entered the United States without inspection. That assertion rests on the manner of entry alleged in the charging document, rather than on Petitioner's procedural posture at the time of arrest and detention.

61. Petitioner was not apprehended at or near the border. He was not inspected upon arrival, placed in expedited removal, or processed as an arriving noncitizen. Instead, Petitioner entered the United States without inspection in or about 2021 and resided in the interior of the United States for more than five years before his first encounter with immigration enforcement on April 30, 2026, when he was arrested during a routine traffic stop in Florida.

62. Section 1225 governs detention during the inspection and admission process. It does not, by its terms, address detention following an interior arrest long after entry. Reading § 1225 to govern such arrests would collapse the distinction Congress drew between border detention and interior detention and would significantly diminish the role of § 1226. Courts avoid interpretations that render statutory provisions superfluous. *Corley v. United States*, 556 U.S. 303, 314 (2009).

63. DHS's own regulations implementing IIRIRA reflect this distinction. In issuing those regulations, the agency explained that "arriving aliens" were detained under § 1225(b), while "[n]oncitizens who were present without admission were detained under the discretionary rules of 8 U.S.C. § 1226(a)." *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)* ("Despite being applicants for admission, aliens who are present without having been admitted or paroled … will be eligible for bond and bond redetermination.").

64. Courts have recognized that DHS's current effort to apply 8 U.S.C. § 1225(b) to individuals arrested in the interior reflects a departure from prior agency understanding. In *Bethancourt Soto v. Soto*, No. 1:25-cv-16200, Document 10 (D.N.J. 2025), a

persuasive decision, the court noted Respondents' concession that immigration authorities "did not always interpret [§ 1225(b)] that way," and that, until recently, DHS "read § 1225(b) to apply only to those who have arrived in the United States." The court further observed Respondents' admission that DHS's predecessor agency detained arriving aliens under § 1225(b), while noncitizens present without admission were detained under the discretionary rules of 8 U.S.C. § 1226(a).

65. DHS charged Petitioner under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I), but did not apprehend him at the border or subject him to inspection or expedited removal procedures at the time of arrest. Instead, Respondents rely on the allegation regarding manner of entry in the Notice to Appear to justify treating Petitioner as subject to border detention, despite his interior arrest and placement in ordinary removal proceedings. The charge under INA § 212(a)(7)(A)(i)(I) is consistent with Petitioner's procedural posture in ordinary removal proceedings and does not, standing alone, alter the detention framework applicable to his case.

66. The INA does not permit detention authority to turn on retrospective labeling in a Notice to Appear divorced from a noncitizen's actual apprehension, processing, and placement in removal proceedings

67. That detention theory mirrors the policy embodied in the Department of Homeland Security's July 2025 Interim Guidance, which a federal district court later declared unlawful in *Lazaro Maldonado Bautista et al. v. Santacruz*. There, the court vacated the Interim Guidance under the Administrative Procedure Act and held that noncitizens arrested in the interior are detained under Section 1226(a) and are not subject to mandatory detention under Section 1225(b)(2).

68. Moreover, recent congressional action further reinforces Congress's decision to locate mandatory detention for interior arrests within 8 U.S.C. § 1226(c), rather than § 1225(b). In 2025, Congress enacted the Laken Riley Act, amending § 1226(c) to impose mandatory detention on certain noncitizens present in the United States who have been arrested for or convicted of specified criminal offenses. Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025). Congress placed these mandatory detention provisions within § 1226(c), not § 1225(b), confirming that mandatory detention for interior arrests operates, when applicable, through § 1226.

69. Here, Petitioner does not fall within § 1226(c) as amended. He is not an aggravated felon, and Congress has not mandated his detention. The only detention authority that could apply is § 1226(a), which requires an individualized custody determination.

70. Because Petitioner's detention is governed by 8 U.S.C. § 1226(a), that provision supplies the applicable detention authority. Petitioner was arrested in the interior of the United States and placed in ordinary removal proceedings, and he therefore does not fall within 8 U.S.C. § 1225(b)(2)(A). Section 1226(a) governs discretionary detention of noncitizens already present in the United States while removal proceedings are pending and requires an individualized justification for continued custody.

71. Because Petitioner is being detained under a statutory provision that does not govern his detention, continued custody lacks statutory authorization. The appropriate remedy is release. The Court should grant the petition for a writ of habeas corpus and order Petitioner's immediate release. Only if the Court declines to order release outright should it direct a prompt individualized bond hearing under § 1226(a), at which the government bears the burden of establishing that continued detention is warranted.

COUNT III

Petitioner's Continued Detention Violates the Due Process Clause of the Fifth Amendment

72. Independently of Petitioner's class-based claim and the statutory detention violations described above, Petitioner's continued detention raises serious constitutional concerns under the Due Process Clause of the Fifth Amendment.

73. The Due Process Clause applies to all "persons" within the United States, including noncitizens, and protects against arbitrary deprivation of liberty. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause." Id. at 690.

74. Civil immigration detention, while permissible in limited circumstances, must be justified by a valid statutory basis and accompanied by constitutionally adequate procedures.

75. Procedural due process claims are evaluated under the balancing framework set forth *in Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). That test requires courts to assess: (1) the private interest affected by the official action; (2) the risk of erroneous deprivation through the procedures used and the probable value of additional safeguards; and (3) the government's interest, including the function involved and the administrative burdens of additional or substitute procedures.

76. Application of each *Mathews* factor to Petitioner's circumstances demonstrates that his continued detention violates due process.

A. Petitioner's Private Liberty Interest Is Profound

77. The private interest at stake is Petitioner's freedom from physical restraint, which lies at the core of the Due Process Clause. *Zadvydas*, 533 U.S. at 690.

78. That interest is especially weighty here because it reflects the revocation of long-settled freedom. Petitioner entered the United States in 2021 and lived continuously in the interior of the country for five years before his arrest. During that period, he lived openly in the community and supported his family, and was subject to no supervision, reporting requirements, or immigration custody.

79. When the government seeks to deprive a person of liberty after an extended period of freedom, the private interest is at its apex. See *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Petitioner's detention represents a sudden and severe disruption of a settled liberty interest.

80. The personal consequences of detention are severe and concrete. Prior to detention, Petitioner was employed as a construction worker and was the sole financial provider for his family.

81. These facts establish that the first *Mathews* factor weighs heavily in Petitioner's favor.

B. The Risk of Erroneous Deprivation Is High, and Additional Safeguards Have Substantial Value

82. The second *Mathews* factor examines whether the procedures used create a substantial risk of erroneous deprivation and whether additional safeguards would reduce that risk.

83. Here, the risk of erroneous deprivation is high because Petitioner's detention has been categorical rather than individualized. Respondents detained Petitioner based solely on the legal conclusion that he is subject to mandatory detention under INA § 235(b), even though that statutory theory does not align with his procedural posture and has been rejected in litigation addressing similarly situated individuals.

84. Petitioner has never received an individualized assessment of whether detention is

necessary to serve any legitimate governmental purpose. He sought a bond hearing, but the Immigration Judge denied bond on jurisdictional grounds, concluding that the court lacked authority to consider release. As a result, no neutral decision-maker has evaluated Petitioner's flight risk, danger to the community, or suitability for release under conditions.

85. The lack of any individualized custody determination creates a substantial risk of erroneous detention. The record confirms that risk. Petitioner has maintained steady employment, and has strong family and community ties. These circumstances weigh strongly against any conclusion that continued detention is necessary to ensure appearance or to protect public safety.

86. This denial of an individualized custody determination is constitutionally significant because, when physical liberty is at stake, due process requires the government to bear the burden of justifying continued detention by clear and convincing evidence when such a determination is required. See *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011). Here, Respondents have not attempted to meet that burden because their legal position forecloses any custody determination.

87. The probable value of additional safeguards is substantial. An individualized custody determination placing the burden on the government would meaningfully reduce the risk of erroneous deprivation by requiring a neutral decision-maker to assess whether detention is actually necessary in Petitioner's case.

88. Accordingly, the second Mathews factor weighs decisively in Petitioner's favor.

C. The Government's Interests Do Not Justify Continued Detention

89. The third Mathews factor considers the government's interests.

90. The government has legitimate interests in ensuring attendance at removal proceedings and protecting the public. But those interests are not advanced by categorical detention untethered to individualized necessity.

91. In Petitioner's case, the government's interest in continued detention is minimal. Petitioner is not an aggravated felon and has no record of evading immigration authorities. He lived openly in the community for five years prior to detention. Respondents have offered no evidence that he poses a danger or flight risk.

92. Moreover, providing an individualized custody determination would impose a minimal administrative burden. Immigration courts routinely conduct bond hearings under § 1226(a). Administrative efficiency cannot justify a regime that categorically denies individualized review.

93. On balance, the government's interests do not outweigh Petitioner's substantial liberty interest or the risk of erroneous deprivation.

D. Failure to Follow Governing Regulations and Settled Procedures Compounds the Due Process Violation

94. Due process requires the government to adhere to its own binding regulations when those regulations are intended to confer procedural protections or meaningfully constrain the agency's discretion in depriving an individual of liberty. Where an agency fails to follow such rules, that failure may raise serious due process concerns. This principle applies where the regulation is designed to benefit the affected individual or to limit the agency's discretion in imposing detention. See *Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Vitarelli v. Seaton*, 359 U.S. 535 (1959).

95. DHS regulations implementing the INA establish procedures for discretionary detention

and release of noncitizens arrested in the interior, including access to an individualized custody determination before an Immigration Judge. See 8 C.F.R. §§ 1236.1(d), 1003.19(a). Those procedures reflect the agency's longstanding understanding of how detention authority is to be exercised following interior arrests.

96. In this case, Respondents did not follow those governing procedures. By classifying Petitioner as subject to mandatory detention and denying any opportunity for an individualized custody determination, Respondents departed from the regulatory framework that ordinarily governs detention following interior arrests.

97. The resulting detention is arbitrary in both procedure and effect. Petitioner was deprived of liberty without the regulatory safeguards designed to ensure that detention is justified, individualized, and proportionate. This failure to follow established procedures compounds the due process violation and independently renders Petitioner's continued detention unconstitutional.

CONCLUSION

98. For the reasons set forth above, Petitioner's continued detention exceeds the authority conferred by statute and has been maintained without constitutionally adequate process. Respondents rely on a detention framework that does not correspond to Petitioner's procedural posture and has been rejected in binding classwide relief. Petitioner has already sought administrative custody review and was denied bond based on that same legal error. Under these circumstances, continued confinement perpetuates the statutory and constitutional violations identified above. The appropriate remedy is immediate release. That remedy is further supported by Petitioner's strong ties to the community, which provide substantial incentive to appear and comply with all proceedings.

PRAYER FOR RELIEF

99. WHEREFORE, Petitioner respectfully requests that this Court grant the Petition for a Writ of Habeas Corpus and enter judgment in his favor by ordering the following relief:

100. Grant the writ of habeas corpus and order Petitioner's immediate release from immigration custody, on the ground that his continued detention exceeds statutory authority, is inconsistent with a binding nationwide class judgment, and violates the Due Process Clause of the Fifth Amendment;

101. Declare that Respondents lack authority to detain Petitioner under INA § 235(b), 8 U.S.C. § 1225(b), and that Petitioner's detention under that provision is unlawful in light of his procedural posture;

102. Enjoin Respondents from arresting or re-detaining Petitioner during the pendency of his immigration proceedings except pursuant to lawful statutory authority and with constitutionally adequate procedural safeguards, including an individualized custody determination consistent with 8 U.S.C. § 1226(a), absent further order of this Court;

103. Enjoin Respondents, their officers, agents, and employees from transferring Petitioner outside this Court's jurisdiction while this habeas action is pending, absents prior leave of this Court, in order to preserve the Court's jurisdiction and prevent irreparable harm;

104. In the alternative, and only if the Court declines to order immediate release, order Respondents to provide Petitioner with a prompt, individualized custody determination under 8 U.S.C. § 1226(a) before a neutral decision-maker, at which the government bears the burden of justifying any continued detention by clear and convincing evidence and the decision-maker considers whether conditions of release would reasonably mitigate any asserted risk;

105. Award Petitioner reasonable attorney's fees and costs pursuant to applicable law, including the Equal Access to Justice Act, 28 U.S.C. § 2412, to the extent permitted by law;

106. Grant such other and further relief as the Court deems just and proper.

Dated: May 28, 2026

Respectfully Submitted,

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VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under the penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpuses are true and correct.

Executed this 28th day of April 2026.

s/Yaritssa Plasencia
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