Julian Emilio Infante Berrios
7488 Calzada de la Fuente
San Diego, CA 92154
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CLERK. U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

INFANTE BERRIOS, Julian Emilio

Petitioner,

v.

Christopher LAROSE, *Warden, Otay Mesa Detention*; and Todd LYONS, as *Acting Director of Immigration and Customs* Enforcement and Gregory J. ARCHAMBEAULT, *Field Office Director San Diego Field Office*, and Markwayne MULLIN, *Secretary of Homeland Security,* Todd BLANCHE, Attorney General, United States Department of Justice in their official capacities,

Respondents.

Case No. '26CV3284 JES MSB

PETITION FOR WRIT OF HABEAS CORPUS

Alien File No. [redacted]

PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. §2241

I. INTRODUCTION

1. Petitioner, Mr. Infante Berrios is a 39-year-old native and citizen of Venezuela, Bolivarian Republic of who arrived in the United States at or near Fort Lauderdale on or about November 12, 2022.
2. Respondent was detained on or about April 24, 2026, by the Department of Homeland Security.
3. Petitioner now seeks a writ of habeas corpus directing the Respondents to release Petitioner if no lawful bond hearing is provided or in the alternative, to provide Petitioner with a bond hearing to

determine if he may be released on bond under §1226(a)(2) and the applicable regulations. See 8 C.F.R. §§ 236.1 & 1236.1.

II. VENUE AND JURISDICTION

4. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause).

5. Venue is proper in the Southern District of California because Petitioner is detained at Otay Mesa Detention Center, , and Respondent Christopher Larose exercises immediate physical custody over Petitioner in this District. See 28 U.S.C. §§ 2241(d), 1391(e); Singh v. Noem, 2026 WL 206716, at 4 (S.D. Cal. Jan. 27, 2026), *Williams v. Taylor*, 529 U.S. 362, 374-75 (2000).

III. PARTIES

6. Petitioner Mr. Infante Berrios is a native and citizen of Venezuela, Bolivarian Republic of national who resides in Miami, Florida. He is currently detained at the Otay Mesa Detention Center.

7. Respondent Christopher Larose is the Warden of Otay Mesa Detention Center, where Petitioner is presently detained. Respondent Larose exercises immediate physical custody over Petitioner and is sued in his official capacity.

8. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (hereinafter "ICE"). As such, Respondent Lyons is being sued in his official capacity.

9. Respondent Gregory J. Archambeault is the Field Office Director for Enforcement and Removal Operations, San Diego Field Office, U.S. Immigration and Customs Enforcement. The San Diego Field Office's area of responsibility includes San Diego and Imperial County, and Otay Mesa Detention Center is listed by ICE under the San Diego Field Office. Respondent Archambeault is responsible for ICE/ERO custody decisions affecting

Petitioner at Otay Mesa Detention Center and is sued in his official capacity.

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

11. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

IV. EXHAUSTION OF REMEDIES

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

V. STATEMENT OF FACTS

13. Petitioner, Mr. Julian Emilio Infante Berrios, is a native and citizen of Venezuela who entered the United States through parole on November 12, 2022, and has resided in the United States since that date. See **Exhibit A**, *Copy of Petitioner's Passport.*

14. Petitioner filed for Temporary Protected Status based on the Venezuela country designation. His TPS receipt number is [redacted]. See **Exhibit B**, *TPS Receipt Notice.*

15. Petitioner also became a member of the National TPS Alliance, placing him within the group of Venezuelan TPS applicants and beneficiaries whose rights are implicated by the ongoing litigation in *National TPS Alliance v. Noem*, challenging the government's attempted vacatur and termination of Venezuela TPS protections.

16. In *National TPS Alliance v. Noem*, courts have addressed the legality of DHS's actions vacating and terminating Venezuela TPS protections, including the prior extension of

Venezuela TPS through October 2, 2026. The Ninth Circuit concluded that the Secretary exceeded her statutory authority in vacating the Venezuela TPS extension and terminating Venezuela TPS. However, because emergency stays have affected the implementation of that relief, Petitioner preserves all arguments that his pending TPS application, NTPSA membership, and the ongoing litigation bear directly on whether DHS may lawfully characterize him as being without authorization or subject to detention without individualized custody review.

17. On April 22, 2025, the Board of Immigration Appeals ("BIA") issued a decision which proposes that, "[b]ased on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

18. As of May 26, 2026, Petitioner has been detained for 32 days and denied the opportunity to request bond before an Immigration Judge.

19. DHS served Petitioner with a Notice to Appear, placing him in removal proceedings under INA § 240. The NTA charges Petitioner under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), and ICE previously treated Petitioner as subject to INA § 236 custody authority. Petitioner requested a bond hearing or custody redetermination before the Immigration Court, but the Immigration Judge denied bond jurisdiction based on INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

20. Petitioner's continued detention is causing irreparable harm, as he has been separated from his family and continues to suffer trauma as a result of this unlawful restraint on his liberty.

VI. LEGAL FRAMEWORK

21. The Immigration and Nationality Act establishes different detention frameworks depending on the statutory basis for custody.

22. Section 236(a) of the INA, 8 U.S.C. § 1226(a), generally governs discretionary detention of certain noncitizens pending removal proceedings. Individuals detained under § 1226(a) are ordinarily eligible to seek custody redetermination before an Immigration Judge under the applicable bond regulations. See 8 C.F.R. §§ 1003.19, 1236.1.

23. By contrast, INA § 235(b), 8 U.S.C. § 1225(b), governs certain applicants for admission, including certain noncitizens whom DHS treats as seeking admission or as having been paroled and later returned to custody. Detention under § 1225(b)(1) and § 1225(b)(2) is generally treated as mandatory, subject to DHS parole authority rather than Immigration Judge bond authority. See *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

24. The statutory classification matters because Immigration Judges generally have authority to conduct bond redetermination hearings for noncitizens detained under § 1226(a), but not for noncitizens treated as detained under § 1225(b).

25. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board held that a noncitizen who had been released on parole and later returned to custody after parole termination remained subject to detention under INA § 235(b), not INA § 236(a).

26. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board further held that Immigration Judges lack authority to hear bond requests or grant bond to certain noncitizens detained under INA § 235(b)(2), even when those individuals are placed in removal proceedings under INA § 240.

27. Petitioner respectfully submits that his case should not be treated as a mandatory-detention case under § 1225(b)(2). Petitioner entered the United States through parole, resided in the United States for an extended period, filed for Temporary Protected Status, and is now in

regular removal proceedings under INA § 240. Petitioner therefore preserves the argument that his custody should be governed by § 1226(a), or, at minimum, that his continued detention without any meaningful individualized custody review violates the INA, applicable regulations, and the Due Process Clause.

28. In the alternative, even if Respondents contend that Petitioner is detained under § 1225(b)(2), Petitioner preserves all statutory, regulatory, constitutional, and habeas arguments challenging the legality of his continued detention without individualized custody review.

VII. CAUSES OF ACTION

COUNT I

Violation of 8 U.S.C. 1226(a)
Unlawful Denial of Release on Bond

29. Petitioner incorporates by reference the allegations and facts set forth in the preceding paragraphs as though fully set forth herein.

30. Petitioner is detained by Respondents while removal proceedings are pending against him under INA § 240.

31. Respondents have denied Petitioner access to an individualized custody review or bond hearing by treating him as subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b).

32. Petitioner respectfully submits that his detention should not be treated as a straightforward mandatory-detention case under § 1225(b)(2). Petitioner entered the United States through parole, resided in the United States for an extended period, filed for Temporary Protected Status, became a member of the National TPS Alliance, and is now in regular removal proceedings under INA § 240.

33. To the extent Petitioner is properly detained under INA § 236(a), 8 U.S.C. § 1226(a),

Respondents' refusal to provide him access to a custody redetermination hearing violates the INA and the applicable custody regulations.

34. To the extent Respondents contend that Petitioner is detained under INA § 235(b), 8 U.S.C. § 1225(b), Petitioner challenges the legality of applying mandatory detention to him without any meaningful individualized custody review under the specific facts of this case.

COUNT II
Violation of Custody Regulations and Unlawful Denial of Bond Jurisdiction under 8 C.F.R. §§ 1003.19, 1236.1, and Related Regulations

35. Petitioner incorporates by reference the allegations and facts set forth in the preceding paragraphs as though fully set forth herein.

36. The custody regulations provide a mechanism for custody redetermination before an Immigration Judge for noncitizens detained under INA § 236(a), 8 U.S.C. § 1226(a). See 8 C.F.R. §§ 1003.19, 1236.1.

37. In promulgating regulations after IIRIRA, the agencies recognized that, "[d]espite being applicants for admission," certain noncitizens "present without having been admitted or paroled" would remain eligible for bond and bond redetermination. 62 Fed. Reg. 10312, 10323.

38. Petitioner respectfully submits that the statutory and regulatory framework does not authorize Respondents to foreclose all custody review merely by labeling him subject to § 1225(b)(2), particularly where he entered through parole, resided in the United States for years, sought TPS protection, and is now in regular removal proceedings.

39. Respondents' position deprives Petitioner of the custody review contemplated by the INA and its implementing regulations, or, at minimum, raises serious constitutional concerns requiring this Court's intervention.

COUNT III
Violation of Fifth Amendment Due Process Clause

40. Petitioner incorporates by reference the allegations and facts set forth in the preceding paragraphs as though fully set forth herein.

41. The Fifth Amendment provides that *"[n]o person"* shall be deprived of liberty without due process of law.

42. Freedom from physical detention is a core liberty interest protected by the Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

43. The protections of the Due Process Clause extend to noncitizens physically present in the United States, regardless of whether their presence is lawful, unlawful, temporary, or permanent. See *Id.* at 693.

44. Petitioner has been detained for approximately thirty-two days without access to a meaningful individualized custody review. His detention has separated him from his family and has caused ongoing emotional distress and harm.

45. Respondents' continued detention of Petitioner without any meaningful opportunity to demonstrate that he is neither a flight risk nor a danger to the community violates the Due Process Clause.

46. Petitioner is entitled to release under reasonable conditions of supervision or, in the alternative, a prompt individualized custody hearing before a neutral decisionmaker.

PRAYER FOR RELIEF

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

1) Assume jurisdiction over this matter;

2) Grant Petitioner a writ of habeas corpus declaring that Petitioner's detention without access to an individualized bond hearing is unlawful because Petitioner is detained under INA § 236(a), 8 U.S.C. § 1226(a), and is eligible for custody redetermination before an

Immigration Judge under the applicable bond regulations;

3) order Respondents to immediately release Petitioner from custody under reasonable conditions of supervision, or, in the alternative, order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within a short, definite period set by this Court;
4) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
5) Order Respondents to file a response to this Petition on an expedited;
6) Grant any other and further relief which this Court deems just and proper.

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

Respectfully submitted this May 26, 2026.

Julian Emilio Infante Berrios
7488 Calzada de la Fuente
San Diego, CA 92154

Detained in ICE Custody at:
Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, CA 92154.

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

I, Julian Emilio Infante Berrios, am the Petitioner of this action. I declare under penalty of perjury that the factual statements set forth in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief, and that I have personal knowledge of the matters stated herein.

Julian Emilio Infante Berrios Date: 05/26/2026