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5
6 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

7 **Carlos Ramon AGUILAR MAQUEDA,**

8 Petitioner,

9 v.

10 **Markwayne MULLIN,** Secretary, U.S.
11 Department of
Homeland Security;

12 **Todd LYONS,** Acting Director, U.S.
13 Immigration and Customs Enforcement;

14 **Patrick DIVVER,** Field Office Director, San
15 Diego Field Office, U.S. Immigration and
Customs Enforcement.

16 **Christopher LAROSE,** Senior Warden, Otay
Mesa Detention Center;

17 **Sirce OWEN,** Acting Director of the Executive
18 Office for Immigration Review (EOIR),
U.S. Department of Justice.

19 **Todd BLANCHE,** Acting Attorney General,
20 U.S.
Department of Justice.

21 Does 1-2
22 Respondents.

Case No.: **'26CV3522 JES JLB**

Agency File No.: 

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner Carlos Ramon Aguilar Maqueda, (Petitioner) is a noncitizen and
3 longtime resident of the United States who has been harmed by Defendants-Respondents'
4 (Defendants) policy reinterpreting the immigration detention statutes to preclude Petitioner from
5 eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for
6 bond hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new policy,
7 Defendants now consider Petitioner as subject to mandatory detention under INA section
8 235(b)(1)(B)(iii)(IV) without the opportunity for release on bond during the pendency of his
9 lengthy removal proceedings.

10 2. Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging
11 his ongoing immigration detention without the availability of a custody hearing. Respondents
12 unlawfully classify Petitioner as subject to mandatory detention under INA § 235(b), despite the
13 fact that Petitioner has lived continuously in the United States since 2007.

14 3. Petitioner has lived in the United States continuously since 2007. Petitioner was
15 detained on June 9, 2026. He was transferred to the Otay Mesa Detention Facility in San Diego,
16 California, where he remains detained. Current Immigration Judges are forbidden to accept
17 jurisdiction over Petitioner's custody hearing, as they erroneously consider Petitioner and those
18 similarly situated to him as being subject to mandatory detention under INA §
19 235(b)(1)(B)(iii)(IV). Immigration Judges are instructed to rely on *Matter of Yajure Hurtado*, 29
20 I&N Dec. 216 (BIA 2025), and reference the Ninth Circuit's stay in *Maldonado Bautista v. DHS*,
21 No. 26-1044 (9th Cir. Mar. 6, 2026). Therefore, any Motion for Custody Redetermination to the
22 Immigration Court at this time would be futile absent the issuance of a habeas order directing the
23 Immigration Court he is entitled to such a hearing.

1 4. Petitioner is not an arriving alien and is not presently subject to expedited removal
2 proceedings under INA § 235. Because Petitioner has been present in the United States since 2007,
3 has continuously resided in the country for years, and never received an expedited removal order,
4 his detention is governed by INA § 236(a), which entitles him to an individualized custody
5 determination.

6 5. Petitioner is charged with, inter alia, having entered the United States without
7 inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i). Petitioner first entered the United States in 1995 and
8 has lived continuously in the United States with the exception of a short departure in 2007. Thus,
9 he is not subject to mandatory detention as he has been physically present in the US well past the
10 two-year minimum. Thus, he is detained pursuant to INA 236(a) - not mandatory under INA 236(c).
11 This Court should order his immediate release. Alternatively, Petitioner is entitled to an immediate
12 bond hearing before an Immigration Judge.

13 6. DHS is refusing to accept jurisdiction over custody hearings consistent with its new
14 DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone alleged to
15 be inadmissible under § 1182(a)(6)(A)(i) —i.e., those who entered the United States without
16 inspection—to be subject to mandatory detention under INA section 235(b)(1)(B)(iii)(IV) and
17 therefore eligible for release only on parole. Any request to the Immigration Court would be futile.
18 DHS and the Immigration Judges recite the precedent decision in *Matter of Yajure Hurtado* as
19 controlling precedent, and that the Court is not bound by the Central District Court declaratory
20 order.

21 7. The Immigration Court considers Petitioner an “applicant for admission” who is
22 “seeking admission” and subject to mandatory detention under INA section 235(b)(1)(B)(iii)(IV).
23
24

1 The Immigration Court justifies their refusal to accept jurisdiction on the basis that the *Maldonado*
2 *Bautista* orders were stayed by the 9th Circuit on March 6, 2025.

3 8. Petitioner's detention on this basis violates the plain language of the INA and its
4 implementing regulations.

5 9. Subparagraph 1225(b)(2)(A) applies to individuals who are apprehended on arrival
6 in the United States. It states that an "applicant for admission" who is "seeking admission" shall
7 be detained for a removal proceeding. *Id.* It does not apply to individuals like Petitioner, who was
8 arrested and detained by ICE after having entered and begun residing in the United States. Instead,
9 such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on
10 conditional parole or bond. That statute expressly applies to people like Petitioner, are charged as
11 inadmissible for having entered the United States without inspection.

12 10. Defendants' new legal interpretation is plainly contrary to the statutory framework
13 and its implementing regulations. Indeed, for decades, Defendants have applied § 1226(a) to
14 people like Petitioner. Defendants' new policies are thus not only contrary to law, but arbitrary
15 and capricious in violation of the Administrative Procedure Act (APA). They were also adopted
16 without complying with the APA's procedural requirements.

17 11. On January 13, 2026, Executive Office of Immigration Review Chief Immigration
18 Judge Teresa L. Riley wrote an email directing all Immigration Judges that "Maldonado Bautista
19 is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*.
20 Therefore, *Yajure Hurtado* remains binding precedent on agency adjudicators. For clarification,
21 declaratory judgments differ from injunctions in that the former clarifies parties' legal rights
22 without ordering specific action, while the latter is a court order compelling to do or stop doing a
23 specific act. A declaratory judgment is not an equitable remedy, and does not, by itself, have the
24

1 effect of compelling specific action by a party.” See Exhibit A: EOIR Chief Immigration Judge
2 Email.

3 12. On February 18, 2026, the Central District of California issued an Order to Enforce
4 Judgement in the matter of *Maldonado Bautista et al. v. Ernesto Santacruz Jr et al.*, 5:25-cv-
5 01873-SSS-BFM (Dkt No. 107) (Feb. 18, 2026). The Court chastised the Department of Homeland
6 Security and the Executive Office for Immigration Review for failing to adhere to its prior orders
7 certifying the class and instructing to provide bond hearings for persons like Petitioner. As a result
8 of the rejection and ignorance of the federal court orders, the Central District Court issued further
9 relief explicitly vacating *Matter of Yajure Hurtado* under the Administrative Procedure Act. The
10 9th Circuit Court of Appeals stayed the order on March 6, 2026.

11 13. Petitioner is not an arriving alien and is not presently subject to expedited removal
12 proceedings under INA § 235. Because Petitioner was released into the United States in 2007,
13 continuously resided in the country for years, and never received an expedited removal order, his
14 detention is governed by INA § 236(a), which entitles him to an individualized custody
15 determination.

16 14. Petitioner is not a danger to the community nor a flight risk based on the core factors
17 to be used by Immigration Courts. See *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

18 15. Petitioner now challenges his continued detention as illegal and unconstitutional
19 and requests his immediate release.

20 JURISDICTION

21 16. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
22 Otay Mesa Detention Center in San Diego, California.

17. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

18. This Court may 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.

VENUE

19. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District, the judicial district in which Petitioner currently is detained.

20. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

REQUIREMENTS OF 28 U.S.C. § 2241, 2243

21. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file return “within three days unless good cause additional time, not exceeding twenty days, is allowed.” *Id.* Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention.

22. 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

1 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
2 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
3 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

4 23. Petitioner is “in custody” for the purpose of 28 U.S.C. § 2241 because he was
5 arrested by Respondents and remains in their legal and physical custody at Otay Mesa Detention
6 center in Otay Mesa, California. He is under Respondents’ and their agents’ direct control.

7 PARTIES

8 24. Petitioner Carlos Ramon Aguilar Maqueda is a citizen of Mexico who has been in
9 immigration detention since June 9, 2026. Petitioner was arrested in Escondido, CA. ICE did not
10 set bond, and any Petitioner request for review of his custody by an IJ would be futile because he
11 is deemed an “applicant for admission.” Petitioner has resided continuously in the United States
12 since 2007.

13 25. Respondent, Patrick Divver, is the Director of the San Diego Field Office of ICE’s
14 Enforcement and Removal Operations division. As such, Patrick Divver is Petitioner’s immediate
15 custodian and is responsible for Petitioner’s detention and removal. He is named in his official
16 capacity.

17 26. Respondent, Todd Lyons, is the Acting Director of US Immigration and customs
18 enforcement. As such, Todd Lyons is responsible for Petitioner’s detention and is named in his
19 official capacity.

20 27. Respondent Markwayne Mullin is the Secretary of the Department of Homeland
21 Security. He is responsible for the implementation and enforcement of the Immigration and
22 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Mr.
23 Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

28. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

29. Respondent Todd Blanche is the Acting 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.

30. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

31. Respondent Christopher LAROSE is employed by CoreCivic as Warden of the Otay Mesa Detention Facility where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

32. Petitioner has been detained since June 9, 2026.

33. Petitioner is detained pursuant to 8 USC §1225(b)(2)(A).

34. Petitioner has been in the United States since 1995 with the exception of a short departure in 2007.

35. He has resided in the United States continuously well beyond 2 years before his apprehension and thus is not subject to any expedited removal laws under section 235(b) of the Immigration and Nationality Act.

36. Petitioner has a US citizen sponsor and a Lawful Permanent Resident sponsor willing to post his bond and ensure he appears for all immigration hearings and check-ins. *See* Exhibit B (Sponsor's affidavits, financial documents, proof of fixed address).

37. Petitioner has zero criminal history. He is a person of good moral character. See Exhibit C (Letters of Support).

LEGAL FRAMEWORK

38. A petitioner must exhaust administrative remedies by appealing to the BIA before seeking judicial remedies and include bond determinations. *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). “[A] court may waive the prudential exhaustion requirement if ‘administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.’” *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). “The party moving the court to waive prudential exhaustion requirements bears the burden of demonstrating that at least one of these Laing factors applies.” *Aden v. Nielsen*, No. C18-1441RSL, 2019 WL 5802013, at *2 (W.D. Wash. Nov. 7, 2019).

39. Here, Petitioner is challenging both the lawfulness of his initial detention, and the ongoing detention. Respondents' position is that Petitioner is not eligible for a custody redetermination hearing pursuant to Section 236(a) of the Immigration and Nationality Act and therefore will deny any request for a bond hearing for Petitioner. Therefore any request for such hearing at this stage would be futile and require the instant petition for relief.

40. Petitioner is challenging the unlawfulness of Respondents' initial decision to detain him, independent of any decision made by any Immigration Judge in removal proceedings.

1 41. Therefore, a writ of habeas corpus is the sole avenue to vindicate Petitioner's
2 constitutional, statutory, and regulatory rights and restore his liberty.

3 42. Courts have recognized the significance of the habeas statute in protecting
4 individuals from unlawful detention, which affords "a swift and imperative remedy in all cases of
5 illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963); see also *Yong v. INS*, 208
6 F.3d 1116, 1120 (9th Cir. 2000) (noting that habeas statute requires expeditious determination of
7 petitions).

8 43. The Court must grant the petition for writ of habeas corpus or issue an order to
9 show cause to Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243.
10 "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in
11 deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507
12 U.S. 292, 306 (1993)).

13 44. Due process requires "adequate procedural protections" to ensure that the
14 government's asserted justification for physical confinement "outweighs the individual's
15 constitutionally protected interest in avoiding physical restraint." *Zadvydas v. Davis*, 533 U.S.
16 678, 690 (2001) (internal quotation marks omitted).

17 45. In the immigration context, the Supreme Court has recognized two valid purposes
18 for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*;
19 *Demore*, 538 U.S. at 528.

20 46. The test for procedural due process claims, the Mathews test balances: (1) the
21 private interest threatened by governmental action; (2) the risk of erroneous deprivation of such
22 interest and the value of additional or substitute safeguards; and (3) the government interest.
23 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); see also *Sho v. Current or Acting Field Off. Dir.*,
24

No. 1:21CV-01812 TLN AC, 2023 WL 4014649, at *3 (E.D. Cal. June 15, 2023), report and recommendation adopted, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21, 2023) (using Mathews factors to assess a habeas petitioner's due process claims and collecting cases doing the same). Here, each factor weighs in Petitioner's favor, and Petitioner's release is justified due to his interest in avoiding prolonged or unjustified detention. Petitioner poses no danger to the community, nor is a flight risk.

47. Respondents have failed to demonstrate that Petitioner is a flight risk or danger to his community warranting his detention after being released on his own recognizance. Immigration Courts are required to consider the following non-exhaustive *Matter of Guerra* list of factors to decide if a respondent is a danger to the community or a flight risk:

- Fixed Address: Whether the individual has a stable fixed address in the United States. Here, Petitioner has a US Citizen Sponsor and Lawful Permanent Resident Sponsor who are committed to supporting him and he will reside at same address prior to his detention. *See* Exhibit B.
- Length of Residence: How long the individual has resided in the United States. Petitioner has been in the United States continuously for nearly 20 years.
- Family Ties: Presence of family in the United States. Petitioner has several US Citizen and Lawful Permanent Resident family members in the United States. *See* Exhibits B, C.
- Employment History: Petitioner has a record of stable employment.
- Court Appearance Record: A history of appearing for court hearings. Petitioner has never failed to appear for any hearing and intends to pursue his applications for relief.
- Criminal Record: The extensiveness, recency, and seriousness of criminal activity. Petitioner has zero criminal history in the United States nor abroad.
- Immigration Violations: A history of previous immigration violations. Here, Petitioner entered the United States from Mexico without proper documentation in 2007.
- Manner of Entry: How the individual entered the United States.
- Flight risk: Attempts to flee prosecution or escape authorities. Petitioner made no attempt to flee authorities.

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

1 48. The Executive Office for Immigration Review and its subagency the Immigration
2 Court and the Department of Homeland Security (DHS) are unlawfully ordering that individuals
3 such as Petitioner be denied the opportunity to be released on bond. Immigration Judges are
4 refusing to assert proper jurisdiction and stubbornly are following the outdated DHS position. The
5 Immigration Court continues its improper jurisdictional deflection via *Matter of Yajure Hurtado*,
6 29 I&N Dec. 216, 225 (BIA 2025).

7 49. Petitioner, Carlos Ramon Aguilar Maqueda, while he does not have lawful status
8 in the United States, he was unlawfully detained and is being held at the Otay Mesa Detention
9 Center. He was apprehended by immigration authorities on June 9, 2026.

10 a. entered the United States without inspection in 2007 and was not apprehended upon
11 arrival, cf. *id.*; and

12 b. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

13 50. After apprehending Petitioner on June 9, 2026 the DHS placed him in removal
14 proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under
15 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.
16 Petitioner is subject to Section 236(a) of the Immigration and Nationality Act, and is not subject
17 to mandatory detention pursuant to Section 236(c) or Section 235 of the Act. The Court should
18 expeditiously grant this petition and order Petitioner released.

19 51. Alternatively, the Court should order Respondents to provide a custody
20 redetermination hearing under 8 U.S.C. § 1226(a) within seven days.

21 **CAUSES OF ACTION**

22 **1. Violation of Fifth Amendment Right to Due Process – Substantive and Procedural**
23 **Due Process, U.S. Const. Amend. V.**
24

1 52. Petitioner restates, realleges, and incorporates by reference each and every allegation in the
2 paragraphs above as if fully set forth herein.

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

8 54. Generally, due process protections depend on the situation and must account for (1) the
9 private interest at issue, (2) the risk of erroneous deprivation of that interest through the
10 procedures used, and (3) the Government's interest. *Mathews v. Eldridge*, 424 U.S. 319,
11 334–35 (1976). Here, Petitioner was detained and subject to mandatory detention without
12 any opportunity to be heard prior to his detention.

13 55. Due process requires that government action be rational and non-arbitrary. *See U.S. v.*
14 *Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

15 56. Petitioner has a vital liberty interest in remaining free from DHS custody.

16 57. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July
17 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June
18 14, 2025) (explaining that a non-citizen that ICE released from custody after initial
19 apprehension “has a substantial private interest in remaining out of custody” which
20 includes an interest in “...obtaining necessary medical care, [and] maintaining her
21 relationships in the community...”).

22 58. Even if the initial decision to release a non-citizen from DHS custody is discretionary,
23 “...after that individual is released from custody, he has a protected liberty interest in
24

remaining out of custody.” *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (quoting *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025)).

59. Once a non-citizen is released, should the Department decide to re-detain him, he is entitled to notice as to what reasons he is being re-detained, such as which alleged violations of conditions of his release. 8 CFR 241.4(l)(1) (2024). That did not occur here.

60. Here, Petitioner was detained in a hasty manner after being free without incident for nearly 20 years. He had no violations or changed circumstances justifying his detention.

61. Petitioner has no criminal history. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest). The government has not identified any materially changed circumstances that would warrant detaining Petitioner.

2. Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Violation of 8 C.F.R. § 239.2(c)

62. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

63. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

64. Once a removal proceeding has been initiated, regulations enumerate the reasons for which proceedings may be dismissed at 8 C.F.R. § 239.2(a). In considering a motion to dismiss,

1 the Immigration Judge must make “an informed adjudication . . . based on an evaluation
2 of the factors underlying the [DHS] motion.” *Matter of G-N-C-*, 22 I&N Dec. 281, 284
3 (BIA 1998).

4 65. The initiation of expedited removal proceedings is not an enumerated ground upon which
5 a removal proceeding may be dismissed.

6 66. It is a well-established administrative principle that “agency action taken without lawful
7 authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d
8 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015);
9 see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016)
10 (invalidating agency action because it was taken by unauthorized official).

11 67. Under the APA, an agency must provide “reasoned explanation for its action” and “may
12 not depart from a prior policy sub silentio or simply disregard rules that are still on the
13 books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). On mere
14 conjecture, Respondents’ intent was to eliminate the due process rights available to
15 Petitioner in removal proceedings under section 240 of the INA, deprive him of his liberty
16 interest despite no evidence of material changed circumstances, or for some other purposes
17 not supported by law. See *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921,
18 at *5 (N.D. Cal. July 24, 2025) (“Detention for its own sake, to meet an administrative
19 quota, or because the government has not yet established constitutionally required pre-
20 detention procedures is not a legitimate government interest.”).

21 68. In deciding to detain Petitioner, Respondents further violated the APA by “entirely fail[ing]
22 to consider an important aspect of the problem” – namely, the important procedural rights
23 that Petitioner relied on in § 1229a immigration court proceedings. See *Motor Vehicle Mfrs.*
24

1 *Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); see also *Dep't*
2 *of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-33 (2020) (holding
3 that rescission of immigration policy without considering “particular reliance interests” is
4 arbitrary and capricious in violation of the APA).

5 69. The arbitrary and capricious detention of Petitioner was not made in furtherance of an
6 enumerated reason set forth in the regulations and causes Petitioner irreparable harm. For
7 these reasons, the Court should find that the decision to detain Petitioner is arbitrary,
8 capricious, and unsupported by substantial evidence. *See* 5 U.S.C. § 706(2)(A), (E).

9 **3. Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in**
10 **Accordance with Law and in Excess of Statutory Authority, Unlawful Detention**

11 70. Petitioner restates, realleges, and incorporates by reference each and every allegation in the
12 paragraphs above as if fully set forth herein.

13 71. Under the APA, a court shall “hold unlawful and set aside agency action...” that is “...(A)
14 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B)
15 contrary to constitutional right, power, privilege, or immunity...” 5 U.S.C. § 706(2)(A)-
16 (B).

17 72. An action is an abuse of discretion if the agency “entirely failed to consider an important
18 aspect of the problem, offered an explanation for its decision that runs counter to the
19 evidence before the agency, or is so implausible that it could not be ascribed to a difference
20 in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of*
21 *Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State*
22 *Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).
23
24

73. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.”

Dep’t of Com. v. New York, 588 U.S. 752, 773 (2019) (citation omitted).

74. In *Y-Z-H-L v Bostock*, 2025 WL 1898025, at *10-12 (D. Or. July 9, 2025), the Court explained the process of discretionary release from custody in immigration cases and noted that before revoking the release, the non-citizen must be given written notice of the impending revocation, which must include a cogent description of the reasons. Under the APA, non-citizens are entitled to determinations related to their release revocations that are not arbitrary, capricious or an abuse of discretion. *See id.* at *10.

75. By detaining Petitioner without notice or consideration of his individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

76. Respondents have made no finding that Petitioner is a danger to the community.

77. Respondents have made no finding that Petitioner is a flight risk.

78. By detaining Petitioner categorically and without notice, Respondents have further abused their discretion because, since the agency made its initial custody determination, on mere conjecture, there have been no changes to Petitioner’s specific facts or circumstances that support his detention.

4. Violation of the Fourth Amendment of the Constitution

79. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

80. The Fourth Amendment protects “[t]he right of the people to be secure in their persons against unreasonable searches and seizures.” U.S. Const. amend. IV. The Supreme Court

1 has recognized that immigration arrests and detentions are “seizures” within the meaning
2 of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984)
3 (acknowledging that deportation proceedings are civil, but the Fourth Amendment still
4 applies to the “seizure” of the person).

5 81. The Fourth Amendment requires that arrests entail a neutral, judicial determination of
6 probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial
7 determination can occur either before the arrest, in the form of a warrant, or promptly
8 afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest and
9 detention of a person, including of a noncitizen, absent a neutral judicial determination of
10 probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of*
11 *Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48
12 hours of detention, which includes weekends, unless there is a bona fide emergency or
13 other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57
14 (1991).

15 82. Congress enacted a strong preference that immigration arrests be based on warrants. *See*
16 *Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality
17 Act thus provides immigration officers with only limited authority to conduct warrantless
18 arrests. 8 U.S.C. § 1357(a)(2). Federal regulations track the strict limitations on warrantless
19 arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

20 83. Petitioner did not receive any judicial determination of probable cause for his arrest or
21 continued detention by the Respondents.

22 84. The Government cannot salvage this seizure by invoking generalized immigration
23 enforcement interests. The Fourth Amendment’s reasonableness inquiry is fact-specific
24

1 and demands individualized justification for both the arrest and the extended detention. *See*
2 *United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114.

3 Petitioner did not pose any danger to any person in the community at large.

4 85. Respondents’ arrest of Petitioner constitutes an unreasonable and unlawful seizure in
5 violation of the Fourth Amendment.

6 CLAIM FOR RELIEF

7 1. Violation of Fifth Amendment Right to Due Process

8
9 86. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in
10 the preceding paragraphs as if fully set forth herein.

11 87. Here, Petitioner has “passed through our gates” and “may be expelled only after
12 proceedings conforming to traditional standards of fairness encompassed in due process of
13 law.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). Because
14 Petitioner has developed an interest in remaining during his time here, “the procedures used
15 to remove [him] must adequately protect” that interest. *Make the Rd. New York v. Noem*,
805 F. Supp. 3d 139, 159 (D.D.C. 2025).

16 88. In this case, Petitioner has been present in our country for nearly 20 continuous years. This
17 substantial amount of time indicates he is afforded the Fifth Amendment’s guaranteed due
18 process before removal. *See Yamataya v. Fisher*, 189 U.S. 86, 87 (1903) (finding a
19 noncitizen was entitled to due process before removal despite having spent only four days
20 in the US).

21 89. There is no basis to find Petitioner is a flight risk or presents a danger to the community,
22 which are core guideposts for parole, and Respondents have not supplied any additional
23 information to the contrary. Denying Petitioner notice and reasoning upon his detainment
24 took away a meaningful opportunity to contest and violated due process. *See Pinchi*, 792

1 F. Supp. 3d at 1032-35; Y-Z-L-H v. Bostock, 792 F. Supp. 3d 1123, 1146-47 (D. Or. 2025)
2 (D. Or. July 9, 2025).

3 90. Continued detention violates the Fifth Amendment, and Habeas relief is required to remedy
4 this constitutional violation.

5
6 **Counts 2 and 3: Violation of the Administrative Procedure Act – 5 U.S.C. §**
7 **706(2)(A); Unlawful Detention;**

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

10 92. Petitioner was not provided adequate notice. Respondents must provide at minimum some
11 reasoning explaining why the Petitioner would now be considered a flight risk or danger
12 to the community. See *Castellon*, 2025 WL 2373425, at *12; *Pinchi v. Noem*, 792 F. Supp.
13 3d 1025, 1032-35 (N.D. Cal. July 24, 2025). Given Respondent has not attempted to justify
14 the detention for Petitioner, this demonstrates they have acted arbitrarily and capriciously
15 in violation of the APA.

16 93. Habeas relief is required to remedy this Constitutional violation.

17
18 **4. Fourth Amendment Violation and Irreparable Harm**

19 94. Petitioner did not receive any judicial determination of probable cause for his arrest or
20 continued detention by the Respondents.

21 95. Continued detention based on this warrantless arrest causes severe and irreparable harm,
22 including loss of liberty, emotional and psychological harm, separation from family, and
23 interference with the ability to pursue legal claims.
24

PRAYER FOR RELIEF

1
2 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 3 a. Assume jurisdiction over this matter;
4 b. Issue a writ of habeas corpus;
5 c. Declare the Petitioner's detention is unlawful;
6 d. Declare that Petitioner's detention is governed by INA § 236(a), not INA § 235(b);
7 e. Order Respondents to immediately release Petitioner;
8 f. Alternatively order prompt constitutionally compliant bond hearing before a neutral
9 adjudicator within five (5) days;
10 g. Award Petitioner attorney's fees and costs as permitted by law; and
11 h. Grant any other and further relief that this Court deems just and proper.

12 DATED this 12th Day of June, 2026.

/S/ ANNA M HYSELL
Attorney for Petitioner

EXHIBIT A

From: Riley, Teresa (EOIR) <Teresa.Riley@shutdo.gov>
Sent: Tuesday, January 13, 2026 3:09 PM
Subject: Guidance

Good afternoon/evening ACJs:

Please provide the following guidance to all Immigration Judges forthwith:

Maldonado Bautista is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore, *Yajure Hurtado* remains binding precedent on agency adjudicators. For clarification, declaratory judgments differ from injunctions in that the former clarifies parties' legal rights and relationships without ordering specific action, while the latter is a court order compelling a party to do or stop doing a specific act. A declaratory judgment is not an equitable remedy and does not, by itself, have the effect of compelling specific action by a party.

Thank you for your attention in this matter.

Sincerely,

Teresa L. Riley
Chief Immigration Judge

EXHIBIT B

AFFIDAVIT OF ERASMO AGUILAR

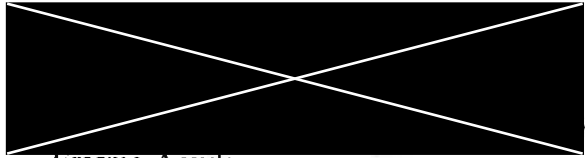
I, Erasmo Aguilar, being duly sworn, do state and declare as follows:

1. My name is Erasmo Aguilar. I am a Legal Permanent Resident of the United States. I reside at .
2. I am writing this Declaration on behalf of Carlos Ramon Aguilar Maqueda who is currently in immigration custody at Otay Mesa, California.
3. Carlos is my Brother.
4. I am writing to the Court to declare that I am willing to be the sponsor of Carlos and am asking the Court to release him with a minimum bond.
5. If released from immigration custody, I declare that Carlos will live at 
 Prior to his detention, Carlos lived at this same address. I will ensure to support Carlos throughout his immigration proceedings.
6. If released from immigration custody I will personally assure that Carlos will appear for all of his Immigration Court hearings and all of his appointments with US Immigration and Customs Enforcement.
7. I have attached copies of my identity documentation.
8. I am fully aware of the legal obligations and consequences of posting a bond on Carlos behalf and declare I will abide by the bond terms set by the Court.

Everything in this affidavit is true and correct.

6/10-26

DATE


Erasmo Aguilar

AFFIDAVIT OF JONATHAN AGUILAR

I, Jonathan Aguilar, being duly sworn, do state and declare as follows:

1. My name is Jonathan Aguilar. I am a US Citizen. I reside at [REDACTED]
[REDACTED]
2. I am writing this Declaration on behalf of Carlos Ramon Aguilar Maqueda who is currently in immigration custody at Otay Mesa, California.
3. Carlos is my Uncle.
4. I am writing to the Court to declare that I am willing to be the sponsor of Carlos and am asking the Court to release him with a minimum bond.
5. If released from immigration custody, I declare that Carlos will live at [REDACTED]
[REDACTED] Prior to his detention, Carlos lived at this same address. I will ensure to support Carlos throughout his immigration proceedings.
6. If released from immigration custody I will personally assure that Carlos will appear for all of his Immigration Court hearings and all of his appointments with US Immigration and Customs Enforcement.
7. I have attached copies of my identity documentation.
8. I am fully aware of the legal obligations and consequences of posting a bond on Carlos behalf and declare I will abide by the bond terms set by the Court.

Everything in this affidavit is true and correct.

DATE

6/10/26

[REDACTED]
Jonathan Aguilar