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9 Arnulfo Perez Carrillo

10
11 **UNITED STATES DISTRICT COURT**
12
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 Arnulfo Perez Carrillo,

15 Petitioner,

16 v.

17 Markwayne Mullin, Secretary, U.S. Department of
18 Homeland Security; Todd Blanche, U.S. Attorney
19 General; Todd LYONS, Acting Director,
20 Immigration and Customs Enforcement; JOSEPH
21 FREDEN, Acting Field Office Director, U.S.
22 Immigration & Customs Enforcement (ICE),
23 CHRISTOPHER J. LAROSE, Senior Warden, Otay
24 Mesa Detention Facility; EXECUTIVE OFFICE
25 FOR IMMIGRATION REVIEW; IMMIGRATION
26 AND CUSTOMS ENFORCEMENT; and U.S.
27 DEPARTMENT OF HOMELAND SECURITY,

28 Respondents.

Case No. '26CV3557 JLS BJW

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241; VERIFIED
PETITION**

PETITIONER'S A NO. 

I. INTRODUCTION

1. Petitioner Arnulfo Perez Carrillo, [REDACTED] by and through undersigned counsel, respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, together with claims for declaratory and injunctive relief, challenging his ongoing and unlawful civil immigration detention by the Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”).
2. Petitioner is a native and citizen of Guatemala who was born [REDACTED] in Huehuetenango, San Juan Atitan, Guatemala.
3. Petitioner is thirty-eight years old.
4. Petitioner entered the United States without inspection approximately twenty-five years ago.
5. Petitioner has never departed the United States since his entry.
6. Petitioner has therefore resided continuously in the United States for approximately twenty-five years.
7. Petitioner is the father of one young United States citizen daughter, [REDACTED]
[REDACTED]
8. Petitioner has substantial family and community ties in the United States.
9. Petitioner has a 2017 conviction for driving under the influence of alcohol (“DUI”).
10. Other than the DUI conviction, Petitioner has no known criminal history.
11. Petitioner is eligible to seek Non-Lawful Permanent Resident Cancellation of Removal under INA § 240A(b), commonly referred to as “42B” relief.

1 12. Petitioner is currently detained by ICE at the Otay Mesa Detention Center in San
2 Diego County, California.

3 13. Petitioner had a bond hearing on June 1, 2026.

4 14. Petitioner had a master calendar hearing on June 2, 2026.

5 15. Petitioner has another master calendar hearing scheduled for July 1, 2026, before
6 Immigration Judge Mark Sameit at the Otay Mesa Immigration Court.

7 16. Petitioner does not challenge a final order of removal. No administratively final
8 order of removal has been entered against him.

9 17. Petitioner challenges only the legality of his present detention and the absence of
10 a lawful and constitutionally adequate custody determination.

11 18. Petitioner's detention is unlawful for several independent reasons.

12 19. First, because Petitioner was detained after approximately twenty-five years of
13 residence in the United States, the discretionary detention framework of 8 U.S.C.
14 § 1226 governs his custody, not the entry-focused detention provisions of 8
15 U.S.C. § 1225(b) and not the post-final-order detention provisions of 8 U.S.C. §
16 1231.

17 20. Second, Respondents have not established that Petitioner is subject to mandatory
18 detention under 8 U.S.C. § 1226(c).

19 21. Third, Respondents have not provided a constitutionally adequate custody
20 determination supported by individualized findings that continued detention is
21 necessary.

1 22. Fourth, Petitioner's continued detention is arbitrary because Respondents have not
2 shown that he presents a current danger to the community or a flight risk that
3 cannot be addressed through conditions of release.

4 23. Fifth, Petitioner's continued detention is especially unjustified given his
5 approximately twenty-five years of residence, his United States citizen daughter,
6 his eligibility to seek cancellation of removal, and the absence of any final
7 removal order.

8 24. Federal courts have repeatedly recognized that immigration detention must
9 comply with statutory and constitutional limits, and that physical liberty lies at the
10 core of the Due Process Clause.

11 25. Immediate judicial intervention is warranted.

12 26. Immediate release is the proper remedy because Petitioner is detained under an
13 unlawful or constitutionally deficient custody framework.

14 27. In the alternative, if the Court declines to order immediate release outright,
15 Petitioner requests a prompt constitutionally adequate custody determination
16 within five (5) days before a neutral decision-maker, with the burden on the
17 government to justify continued detention by clear and convincing evidence.

18 28. Each additional day of detention inflicts irreparable harm.

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24 **II. JURISDICTION**

25 29. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in
26 custody under federal authority and challenges the legality of that custody. See 28
27 U.S.C. §§ 2241(a), (c)(3); Preiser v. Rodriguez, 411 U.S. 475, 484 (1973).

1 30. Habeas jurisdiction extends to claims that immigration detention violates the
2 Constitution or exceeds statutory authority. See *Zadvydas v. Davis*, 533 U.S. 678,
3 687–88, 699 (2001).

4
5 31. Petitioner does not seek review of a final order of removal.

6 32. Petitioner challenges only the legality of his present detention and the lack of
7 constitutionally adequate custody procedures.

8 33. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises
9 under federal law, including the Constitution, the Immigration and Nationality
10 Act (“INA”), and the Administrative Procedure Act (“APA”).

11
12 34. The Administrative Procedure Act, 5 U.S.C. § 706, further supports review to the
13 extent Respondents’ custody actions are arbitrary, capricious, contrary to law, or
14 in excess of statutory authority.

15 35. Jurisdiction is not barred by 8 U.S.C. § 1252(g) or § 1252(b)(9) because Petitioner
16 challenges the legality of detention and the statutory and constitutional framework
17 governing that detention, not the decision to commence proceedings, adjudicate
18 removability, or execute a final removal order. See *Jennings v. Rodriguez*, 583
19 U.S. 281, 293–95 (2018); *Reno v. American-Arab Anti-Discrimination*
20 *Committee*, 525 U.S. 471, 482 (1999).

21
22 36. Accordingly, this Court has jurisdiction to determine the legality of Petitioner’s
23 detention and to grant habeas, declaratory, and injunctive relief.
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III. VENUE

37. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) because Petitioner is detained within the Southern District of California, specifically at the Otay Mesa Detention Center in San Diego County, and Respondents are officers and employees of the United States who operate and maintain immigration detention facilities within this District.

38. Venue is also proper under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), because Petitioner’s immediate custodian is located within this District and Petitioner’s confinement is within the territorial jurisdiction of this Court.

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

39. Under 28 U.S.C. § 2241, federal courts may entertain petitions for habeas corpus filed by persons who are in custody in violation of the Constitution or laws of the United States.

40. Petitioner satisfies these requirements because he is presently detained under federal authority and alleges that his detention violates the Constitution and laws of the United States.

41. This is a classic habeas case.

42. Petitioner challenges the fact and legality of his civil confinement and seeks release from unlawful detention.

43. Section 2243 requires prompt judicial action in habeas cases.

1 44. The statute directs that the Court shall forthwith award the writ or issue an order
2 directing the respondent to show cause why the writ should not be granted, unless
3 it plainly appears from the petition that the petitioner is not entitled to relief.

4
5 45. The urgency of habeas review is particularly acute where, as here, Petitioner is
6 deprived of physical liberty and remains in ongoing removal proceedings.

7 46. Nothing on the face of this Petition shows that Petitioner is not entitled to relief.

8 47. To the extent any form of prudential exhaustion could be argued, it should be
9 excused because Petitioner asserts statutory and constitutional challenges to
10 detention itself, because delay would cause continuing irreparable harm, and
11 because the legality of the detention framework presents a question appropriate
12 for habeas review.
13

14 48. Prompt intervention is warranted.
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17 V. PARTIES

18 49. Petitioner Arnulfo Perez Carrillo, [REDACTED] is a native and citizen of
19 Guatemala.

20 50. Petitioner was born [REDACTED] in Huehuetenango, San Juan Atitan,
21 Guatemala.
22

23 51. Petitioner is thirty-eight years old.

24 52. Petitioner entered the United States without inspection approximately twenty-five
25 years ago.

26 53. Petitioner has never departed the United States since his entry.
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1 54. Petitioner has resided continuously in the United States for approximately twenty-
2 five years.

3 55. Petitioner is the father of a United States citizen daughter, 
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5
6 56. Petitioner has a 2017 DUI offense.

7 57. Petitioner has no final order of removal.

8 58. Petitioner is eligible to seek Non-Lawful Permanent Resident Cancellation of
9 Removal under INA § 240A(b).

10 59. Petitioner is currently detained at Otay Mesa Detention Center in San Diego
11 County, California.

12
13 60. Petitioner had a bond hearing on June 1, 2026.

14 61. Petitioner had a master calendar hearing on June 2, 2026.

15 62. Petitioner has another master calendar hearing scheduled for July 1, 2026, before
16 Immigration Judge Mark Sameit at the Otay Mesa Immigration Court.
17

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19 **VI. RESPONDENTS**

20 63. Respondent CHRISTOPHER J. LAROSE is the warden of Otay Mesa Detention
21 Facility and has immediate physical custody over Petitioner. As the local
22 custodian, the Warden is responsible for the day-to-day administration of the
23 detention facility where Petitioner is held. The Warden is sued in his/her official
24 capacity as a representative of the entity exercising direct custody over Petitioner.
25

26 64. Respondent JOSEPH FREDEN is the Acting Field Office Director of U.S.
27 Immigration and Customs Enforcement (ICE), in San Diego California. ICE is the
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1 component of the Department of Homeland Security (DHS) which is responsible
2 for detaining and removing noncitizens according to immigration law and
3 oversees custody determinations. Mr. Freden is named in his official capacity. In
4 his official capacity, he is a legal custodian of the petitioner.
5

6 65. Respondent Markwayne Mullin, in his official capacity as the Secretary of the
7 Department of Homeland Security, is the highest-ranking official in DHS. He has
8 ultimate authority over ICE and the enforcement of immigration laws, including
9 detention policy. DHS, under Respondent Mullin's direction, is responsible for
10 the decision to continue Petitioner's detention and to designate him as subject to
11 mandatory custody. He is sued in her official capacity.
12

13 66. Respondent Todd Blanche, in his official capacity as the Attorney General of the
14 United States, oversees the U.S. Department of Justice, which includes the
15 Executive Office for Immigration Review (EOIR). EOIR encompasses the
16 nation's Immigration Courts and the Board of Immigration Appeals (BIA). The
17 Attorney General has ultimate authority over immigration court procedures,
18 including the availability of bond hearings and the interpretation of detention
19 statutes through precedent decisions. Respondent Bondi is sued in her official
20 capacity.
21

22 67. Respondent EOIR (Executive Office for Immigration Review) is a component of
23 the U.S. Department of Justice responsible for adjudicating immigration
24 proceedings. EOIR includes the Immigration Judges who conduct removal and
25 bond proceedings, as well as the BIA which issues appellate administrative
26 decisions. EOIR is sued as a Respondent because it is responsible for
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1 administering the bond hearing process (or lack thereof) at issue in this case.
2 EOIR has failed to provide Petitioner a custody redetermination process, and
3 Petitioner seeks relief to compel EOIR to perform its duty to afford him a bond
4 hearing under the correct legal standards.
5

6 7 **VII. LEGAL FRAMEWORK**

8 68. Federal immigration law establishes distinct detention schemes under the INA
9 depending on a noncitizen's procedural posture.

10 69. Section 1225(b) governs the detention of certain applicants for admission and
11 recent entrants.
12

13 70. Section 1226 governs the arrest and detention of noncitizens already present in the
14 United States pending a decision on whether they are to be removed.

15 71. Section 1231 governs detention after an administratively final order of removal.

16 72. The Supreme Court has recognized that the government may detain certain
17 noncitizens "seeking admission" under §§ 1225(b)(1) and (b)(2), while § 1226(a)
18 allows the government to detain noncitizens already in the country pending the
19 outcome of removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 289
20 (2018).
21

22 73. Petitioner falls into the latter category.
23

24 74. Petitioner entered the United States without inspection approximately twenty-five
25 years ago and has continuously resided in the United States since that time.

26 75. Petitioner was not apprehended at the border, near the border, or immediately
27 after entry.
28

1 76. Rather, Petitioner is a long-term interior resident detained after approximately
2 twenty-five years of residence in the United States.

3 77. Under this posture, the discretionary detention procedures of 8 U.S.C. § 1226
4 govern Petitioner's detention.
5

6 78. Recent district court authority has recognized that long-term interior residents
7 detained years after entry are governed by § 1226, not § 1225. See *Beltran v.*
8 *Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837, at *4–7 (S.D. Cal. Nov. 4,
9 2025).

10 79. In *Ramirez v. Noem*, No. 3:26-cv-01880-RBM-VET, slip op. at 3 (S.D. Cal. Apr.
11 9, 2026), the court held that where a petitioner was detained after residing in the
12 United States for over twenty years, the discretionary detention procedures of §
13 1226 governed detention and habeas relief was warranted.
14

15 80. The same principle applies here.
16

17 81. Petitioner has resided in the United States for approximately twenty-five years
18 and was detained while already living in the interior of the United States.

19 82. Respondents have not established that Petitioner is subject to mandatory detention
20 under § 1226(c).
21

22 83. The known criminal history consists of a 2017 DUI offense.

23 84. A DUI offense, without more, does not automatically establish current
24 dangerousness, nor does it eliminate the requirement of an individualized custody
25 determination.

26 85. Respondents have not provided a constitutionally adequate custody determination
27 identifying why detention remains necessary in light of Petitioner's long
28

1 residence, family ties, eligibility for cancellation of removal, and absence of any
2 final removal order.

3 86. The Fifth Amendment imposes independent constitutional limits on civil
4 immigration detention. See *Zadvydas*, 533 U.S. at 690.

5
6 87. “Freedom from imprisonment, from government custody, detention, or other
7 forms of physical restraint, lies at the heart of the liberty that [the Due Process]
8 Clause protects.” *Id.*

9 88. Civil detention must bear a reasonable relation to a legitimate governmental
10 purpose and cannot be excessive in relation to that purpose. See *Foucha v.*
11 *Louisiana*, 504 U.S. 71, 80 (1992).

12 89. The Due Process Clause requires procedures adequate to guard against erroneous
13 deprivation of liberty. See *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976).

14 90. Courts have also recognized that a later or inadequate custody process does not
15 necessarily cure the injury from unlawful detention already imposed. See *E.A. T.-*
16 *B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025); *Jorge M.F. v.*
17 *Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021); *Domingo v. Kaiser*, No.
18 25-cv-05893-RFL, 2025 WL 1940179, at *3 (N.D. Cal. July 14, 2025).

19 91. In *E.A. T.-B.*, the court explained that a post-detention hearing “cannot serve as
20 an adequate procedural safeguard because it is after the fact and cannot prevent an
21 erroneous deprivation of liberty.”

22 92. In *Jorge M.F.*, the court recognized that where a petitioner is detained, the
23 petitioner has already suffered the injury she seeks to avoid.
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1 93. In Domingo, the court similarly recognized that even prompt post-detention
2 review cannot undo the injury caused by potentially erroneous detention.

3 94. These principles apply here because Petitioner remains detained despite his long
4 residence, family ties, eligibility for relief, and absence of a final removal order.

5 95. The fact that Petitioner had a bond hearing does not eliminate this Court's habeas
6 jurisdiction or cure the statutory and constitutional defects if the hearing failed to
7 apply the correct statutory framework or failed to provide constitutionally
8 adequate procedures.
9

10 96. Petitioner seeks immediate release or, at minimum, a constitutionally adequate
11 custody determination.
12

13
14 **VIII. FACTS**

15 97. Petitioner Arnulfo Perez Carrillo is a native and citizen of Guatemala.

16 98. Petitioner was born  in Huehuetenango, San Juan Atitan,
17 Guatemala.
18

19 99. Petitioner is thirty-eight years old.

20 100. Petitioner entered the United States without inspection approximately
21 twenty-five years ago.
22

23 101. Petitioner has never departed the United States since his entry.

24 102. Petitioner has continuously resided in the United States for approximately
25 twenty-five years.

26 103. Petitioner is the father of one United States citizen daughter, 
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1 104. Petitioner's daughter is a young United States citizen child who depends on
2 her father's presence, support, and care.

3 105. Petitioner has substantial family ties in the United States through his United
4 States citizen daughter.

5 106. Petitioner has a 2017 DUI offense.

6 107. To Petitioner's knowledge, Respondents have not identified any recent
7 criminal conduct or present facts showing that Petitioner is a current danger to the
8 community.

9 108. Petitioner is eligible to seek Non-Lawful Permanent Resident Cancellation
10 of Removal under INA § 240A(b).

11 109. Petitioner's eligibility for cancellation of removal gives him a strong
12 incentive to appear for his immigration proceedings and pursue relief lawfully.

13 110. Petitioner is currently detained at the Otay Mesa Detention Center in San
14 Diego County, California.

15 111. Petitioner had a bond hearing on June 1, 2026.

16 112. Petitioner had a master calendar hearing on June 2, 2026.

17 113. Petitioner has another master calendar hearing scheduled for July 1, 2026,
18 2026, before Immigration Judge Mark Sameit at the Otay Mesa Immigration Court.

19 114. No administratively final order of removal has been entered against
20 Petitioner.

21 115. Petitioner remains detained without a lawful and constitutionally adequate
22 custody determination.

1 116. To Petitioner's knowledge, Respondents have not articulated present facts
2 showing that continued detention is necessary to serve a legitimate regulatory
3 purpose.

4 117. To Petitioner's knowledge, Respondents have not explained why
5 alternatives to detention would be inadequate.

6 118. Petitioner's continued detention separates him from his young United States
7 citizen daughter and inflicts continuing irreparable harm.
8
9

10 **IX. FIRST CLAIM FOR RELIEF**

11 **Violation of the Immigration and Nationality Act**

12 **Detention Contrary to Law**

13
14 Petitioner incorporates by reference the allegations of fact set forth in the preceding
15 paragraphs:

16 120. The INA provides different detention authorities depending on whether a
17 noncitizen is seeking admission, is already in the country pending removal
18 proceedings, or has a final order of removal.
19

20 121. Petitioner is not in post-final-order detention. Section 1231 therefore does
21 not apply.

22 122. Petitioner is not an arriving noncitizen apprehended at the border or
23 immediately after entry.
24

25 123. Petitioner entered the United States without inspection approximately
26 twenty-five years ago and has remained in the United States continuously since
27 then.
28

1 124. Petitioner was detained after approximately twenty-five years of interior
2 residence.

3 125. Under Jennings, Beltran, and Ramirez, detention in that posture is
4 governed by § 1226.
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6 126. Respondents may not lawfully confine Petitioner under an entry-focused
7 mandatory detention theory under § 1225(b).

8 127. On the current facts known to Petitioner, Respondents have not
9 established that Petitioner is subject to mandatory detention under § 1226(c).

10 128. At minimum, Respondents are required to proceed under the discretionary
11 detention framework of § 1226(a), which requires lawful individualized custody
12 procedures.
13

14 129. Petitioner's continued detention outside the proper statutory framework is
15 contrary to the INA and exceeds Respondents' statutory authority.

16 130. Because Petitioner is in custody in violation of federal law, habeas relief is
17 warranted under 28 U.S.C. § 2241.
18

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20 **X. SECOND CLAIM FOR RELIEF**

21 **Violation of the Fifth Amendment**

22 **Procedural Due Process**

23
24 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

25 131. The Fifth Amendment prohibits the federal government from depriving
26 any person of liberty without due process of law.

27 132. Petitioner's interest in physical liberty is profound.
28

1 133. Freedom from detention lies at the core of due process protection.

2 134. Under Mathews v. Eldridge, the Court balances: (1) the private interest
3 affected; (2) the risk of erroneous deprivation and the likely value of additional
4 safeguards; and (3) the government's interest.
5

6 135. All three factors favor Petitioner here.

7 136. The first factor strongly favors Petitioner because civil immigration
8 detention deprives him of fundamental physical liberty.

9 137. The second factor also strongly favors Petitioner because Petitioner
10 remains detained despite approximately twenty-five years of residence in the
11 United States, one young United States citizen daughter, eligibility for
12 cancellation of removal, no final order of removal, and no recent criminal history
13 identified by Respondents.
14

15 138. The risk of error is especially high where Respondents have not identified
16 present facts demonstrating dangerousness or flight risk.
17

18 139. The 2017 DUI, misdemeanor conviction may be considered in an
19 individualized custody process, but due process does not permit Respondents to
20 rely on that old offense alone to justify ongoing civil detention without a current
21 individualized showing.
22

23 140. The third factor also favors Petitioner. While the government has a
24 legitimate interest in ensuring appearance and protecting the community, it has
25 little legitimate interest in detaining a person without a lawful statutory
26 framework and constitutionally adequate individualized findings.
27
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1 141. Petitioner's eligibility to seek cancellation of removal gives him a strong
2 incentive to appear and pursue relief.

3 142. Petitioner's young United States citizen daughter and long-term residence
4 further undermine any claim that he is a flight risk.

5 143. Any prior bond hearing does not cure constitutional error if the hearing
6 failed to provide meaningful review under the proper legal standard.

7 144. Because Petitioner was deprived of liberty without constitutionally
8 sufficient custody procedures, his continued detention violates the Due Process
9 Clause of the Fifth Amendment.

10 145. Habeas relief is warranted.

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14 **XI. THIRD CLAIM FOR RELIEF**

15 **Violation of the Administrative Procedure Act**

16 **5 U.S.C. § 706 – Arbitrary, Capricious, and Contrary to Law Agency Action**

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18 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

19 146. To the extent review is available under the APA, courts must hold
20 unlawful and set aside agency action that is arbitrary, capricious, contrary to law,
21 or in excess of statutory authority. 5 U.S.C. § 706(2)(A), (C).

22 147. DHS's decision to arrest and continue detaining Petitioner subjected him
23 to ongoing confinement without a reasoned individualized explanation.

24 148. Respondents failed to account for critical facts, including Petitioner's
25 approximately twenty-five years of residence in the United States, his United
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1 States citizen daughter, his eligibility for cancellation of removal, the age of his
2 2017 DUI offense, and the absence of a final order of removal.

3 149. Respondents also failed to articulate why alternatives short of detention
4 would be inadequate.

5
6 150. Respondents failed to meaningfully consider alternatives to detention,
7 including release on recognizance, reporting requirements, electronic monitoring,
8 or other less restrictive supervisory measures.

9
10 151. By detaining Petitioner without a reasoned and individualized explanation
11 and contrary to the proper statutory framework, Respondents acted arbitrarily,
12 capriciously, and contrary to law.

13 152. Petitioner is therefore entitled to relief under the APA.
14

15 **XII. FOURTH CLAIM FOR RELIEF**

16 **Violation of the Fifth Amendment**

17 **Substantive Due Process – Arbitrary Civil Detention**

18
19 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

20 153. Substantive due process imposes limits on the government's authority to
21 subject persons to civil detention.

22
23 154. Civil detention is constitutionally permissible only where it is reasonably
24 related to a legitimate governmental objective and not excessive in relation to that
25 purpose.

26 155. Immigration detention is civil, not criminal, in nature.

27 156. It therefore cannot constitutionally function as punishment.
28

1 157. Respondents have not identified individualized present facts showing that
2 Petitioner poses a current danger to the community or a flight risk that cannot be
3 managed through conditions of release.

4 158. Petitioner's known criminal issue is a 2017 DUI offense.

5 159. That offense is old and does not, without more, establish that Petitioner
6 currently poses a danger requiring continued civil detention.

7 160. Petitioner has resided in the United States for approximately twenty-five
8 years.

9 161. Petitioner has a young United States citizen daughter.

10 162. Petitioner is eligible to seek cancellation of removal.

11 163. Petitioner has no final order of removal.

12 164. The current record does not show that continued detention is necessary to
13 secure Petitioner's appearance or protect the community.

14 165. Civil detention based on no demonstrated present need is arbitrary.

15 166. Because Petitioner's detention is not shown to be reasonably related to any
16 proven legitimate governmental objective and is excessive in relation to any
17 articulated objective, it violates substantive due process.

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22 **XIII. FIFTH CLAIM FOR RELIEF**

23 **Immediate Release Required; Alternatively, Prompt Constitutionally Adequate**

24 **Custody Determination**

25
26 Petitioner incorporates by reference the allegations of fact set forth in the preceding
27 paragraphs:
28

1 167. Immediate release is an appropriate remedy where a person is detained
2 under the wrong statutory framework or without constitutionally adequate process.

3 168. In Ramirez, the court held that where the petitioner had lived in the United
4 States for over twenty years before being detained, the discretionary detention
5 procedures of § 1226 governed and the petition was granted.

6 169. The court further held that immediate release, rather than merely a bond
7 hearing, was the appropriate remedy.

8 170. That reasoning applies here.

9 171. Petitioner entered the United States approximately twenty-five years ago
10 and has never departed.

11 172. Petitioner's detention is therefore governed by § 1226.

12 173. Immediate release is appropriate because continued detention is unlawful
13 absent a constitutionally adequate individualized determination.

14 174. Immediate release is especially appropriate here because:

15 175. Respondents have not provided a lawful individualized custody
16 determination under the proper framework;

17 176. Respondents have not shown present danger or flight risk;

18 177. Petitioner's only identified criminal issue is a 2017 DUI offense;

19 178. Petitioner has a young United States citizen daughter;

20 179. Petitioner is eligible to seek cancellation of removal;

21 180. Petitioner has no final order of removal; and

22 181. Petitioner has lived in the United States for approximately twenty-five
23 years.
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1 182. In the alternative, if the Court declines to order immediate release outright,
2 the Court should require Respondents to provide Petitioner with a prompt
3 constitutionally adequate custody determination within five (5) days before a
4 neutral decision-maker.
5

6 183. At that custody determination, Respondents should bear the burden of
7 proving by clear and convincing evidence that Petitioner poses a danger to the
8 community or a risk of flight that cannot be mitigated by conditions of release.
9

10 184. If Respondents fail to provide such a constitutionally adequate custody
11 determination within the time ordered by the Court, Petitioner should be
12 immediately released.

13 185. The Court should also prohibit Respondents from transferring Petitioner
14 outside this District during the pendency of this action absent prior Court
15 authorization.
16

17
18 **XIV. PRAYER FOR RELIEF**

19 WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- 20 1. Assume jurisdiction over this Petition pursuant to 28 U.S.C. §§ 2241 and
21 1331;
22
23 2. Issue the writ or an order to show cause under 28 U.S.C. § 2243;
24
25 3. Declare that Petitioner's continued detention is unlawful and violates the
26 INA, the Fifth Amendment, and the APA;
27
28 4. Declare that Petitioner's detention is governed by 8 U.S.C. § 1226 and not
by 8 U.S.C. § 1225(b) or 8 U.S.C. § 1231;

- 1 5. Declare that Respondents' detention of Petitioner without a constitutionally
- 2 adequate individualized custody determination violates procedural due
- 3 process;
- 4
- 5 6. Declare that Respondents' continued detention of Petitioner without any
- 6 demonstrated present need violates substantive due process;
- 7
- 8 7. Declare that Respondents acted arbitrarily, capriciously, and contrary to law
- 9 within the meaning of 5 U.S.C. § 706;
- 10
- 11 8. Issue a writ of habeas corpus directing Respondents to immediately release
- 12 Petitioner from custody, subject to reasonable conditions of supervision if
- 13 the Court deems appropriate;
- 14
- 15 9. In the alternative, order Respondents to provide Petitioner with a prompt
- 16 and constitutionally adequate custody determination within five (5) days
- 17 before a neutral decision-maker;
- 18
- 19 10. Order that at any such custody determination the burden shall be on the
- 20 government to establish by clear and convincing evidence that Petitioner
- 21 poses a danger to the community or a risk of flight that cannot be mitigated
- 22 by conditions of release;
- 23
- 24 11. Order that if Respondents fail to provide such a constitutionally adequate
- 25 custody determination within the time specified, Petitioner shall be
- 26 immediately released;
- 27
- 28 12. Issue appropriate injunctive relief prohibiting Respondents from continuing
- Petitioner's unlawful detention during the pendency of this action;

1 13. Enjoin Respondents from transferring Petitioner outside the jurisdiction of
2 this Court while this Petition is pending, absent prior leave of Court;

3 14. Award Petitioner reasonable attorneys' fees and costs to the extent
4 authorized by law, including under the Equal Access to Justice Act, 28
5 U.S.C. § 2412; and
6

7 15. Grant such other and further relief as the Court deems just and proper.
8

9 Respectfully submitted on:

10 Dated: June 15, 2026
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13

14 /s/ Daniel S. Castaneda
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20 Counsel for Petitioner-Plaintiff
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I, Daniel S. Castaneda, submit this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully submitted on:

Dated: June 15, 2026

/s/ Daniel S. Castaneda
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