

1 Fernanda Ezquerro
2 430 Nutmeg Street, Suite 100
3 San Diego, CA 92103
4 (619)674-3250
5 Fernanda@ezquerrolawgroup.com

6 Attorney for Willin Galindo Morales Hernandez

7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 WILLIN GALINDO MORALES
10 HERNANDEZ,

11 Petitioner,

12 v.

13 WARDEN, Imperial Regional Detention
14 Facility,

15 Respondents.

CIVIL CASE NO.:26-cv-3570-CAB-
SBC

**Amended¹ Petition
for a
Writ of Habeas Corpus**

16
17
18
19
20
21
22
23
24
25
26
27 ¹ Federal Rule of Civil Procedure 15(a)(1)(A) permits a party to “amend its pleading
28 once as a matter of course no later than 21 days after serving it.” Fed. R. Civ. Pro.
15(a)(1)(A) (punctuation altered). It is less than 21 days since service. Morales
Hernandez therefore files this amended petition as of right.

1 **STATEMENT OF FACTS**

2 Mr. Morales Hernandez was born in Guatemala and entered the United States
3 without detection in 2008. Exh. A at ¶ 1. He lived in the U.S. for over 20 years,
4 working as a cook and starting a family. *Id.* On January 7, 2025, Mr. Morales
5 Gonzalez was arrested by ICE during a routine check-in with his probation officer.
6 *Id.* at ¶ 2. Mr. Morales Hernandez was not shown a warrant for his arrest. *Id.* An IJ
7 has ordered Mr. Morales Hernandez' removal. ¶ 3. He has until July 22, 2026, to
8 file an appeal. Mr. Morales Hernandez intends to appeal. *Id.* at ¶ 3.

9 **LEGAL BACKGROUND**

10 **I. The proper remedy for such a warrantless arrest is immediate release**
11 **and an order that Petitioner cannot be re-detained absent the**
12 **procedures of § 1226(a).**

13 Mr. Morales Hernandez may be detained, if at all, pursuant to 8 U.S.C.
14 § 1226(a). But, under section 1226, “[i]ssuance of a warrant is a necessary condition
15 to justify discretionary detention under section 1226(a).” *Chogllo Chafla v. Scott*,
16 804 F. Supp. 3d 247, 264 (D. Me. 2025). It provides that, “[o]n a warrant issued
17 by the Attorney General, an alien may be arrested and detained.” 8 U.S.C. § 1226(a)
18 (emphasis added). “[I]t follows that absent a warrant a noncitizen may *not* be
19 arrested and detained under section 1226(a).” *Chogllo Chafla*, 804 F. Supp. 3d at
20 264 (emphasis in original).

21 That is precisely what a judge in this district recently held. In *Cruz Pedraza*
22 *v. Larose*, the petitioner was parked at a gas station when two unmarked cars
23 blocked his truck. 26-cv-2697-LL-MSB, ECF 12 at 1 (S.D. Cal. May 27, 2026).
24 Several ICE officers got out of their vehicles, asked the petitioner for proof of
25 status, and then arrested him without a warrant. *Id.* at 1–2. The court found *Matter*
26 *of Yahure Hurtado* “unpersuasive” and determined that the petitioner was detained
27 pursuant to § 1226(a), rather than § 1225(b). *Id.* at 4.

28 Importantly, the court then noted that the statutory language of § 1226(a)
provides that “a noncitizen may only be arrested and detained pending a decision

on removal “[o]n a warrant issued by the Attorney General.” *Id.* (quoting 8 U.S.C. § 1226(a)). And “[w]hen the government does not comply with the plain language of section 1226(a), a petitioner’s immediate release is justified.” *Id.* (quotations and alterations omitted). Because Respondents did not dispute that they lacked the necessary warrant to arrest the petitioner, the court held that “Petitioner’s arrest and detention are unauthorized” and immediate release was the “appropriate remedy.” *Id.*

Other courts have similarly held that when ICE makes a warrantless arrest contrary to the plain language of § 1226(a), the “arrest and detention are therefore unauthorized, and the appropriate remedy for detention that lacks a proper statutory basis under § 1226(a) is release.” *Eslid. B.G. v. Bondi*, No. 26-cv-5020-RAL, 2026 WL 734992, *6 (D.S.D. Mar. 16, 2026) (collecting cases); *see also JAACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025); *Diaz v. Albarran*, No. 25-cv-9837-JSC, 2025 WL 3214972 (N.D. Cal. Nov. 18, 2025); *R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB, 2026 WL 788263, *2 (D. Minn. Mar. 20, 2026) (collecting cases ordering immediate release in the absence of a warrant).

Here, Mr. Morales Hernandez was checking in with his probation officer when ICE suddenly arrested him. Exhibit A at ¶ 2. He has never been shown a warrant, and it appears he was arrested without one. Because this arrest violated the plain language of § 1226(a), his “arrest and detention are unauthorized,” and immediate release is the “appropriate remedy.” *Cruz Pedraza*, 26-cv-2697-LL-MSB, ECF 12 at 4.

PRAYER FOR RELIEF

For the above reasons, this Court should order that:

- (1) Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and is instead subject to detention, if at all, pursuant to the discretionary provisions of 8 U.S.C. § 1226.

- 1 (2) Respondents shall immediately release Petitioner from custody;
2 (3) Respondents shall return to Petitioner any personal property; and
3 (4) If Respondents seek to re-detain Petitioner, they shall hold a pre-
4 deprivation bond hearing before a neutral arbiter pursuant to section
5 1226(a) and its implementing regulations, at which Respondents
6 shall demonstrate the issuance of a warrant and at which petitioner's
7 eligibility for bond must be considered, *see, e.g., JAACP*, 2025 WL
8 3013328 at *8; or, at a minimum,
9 and,
10 (5) Any other relief that the Court deems just and proper.

11
12
13
14
15
16
17 Respectfully submitted,

18 Dated: July 6, 2026

s/ Fernanda Ezquerro

Fernanda Ezquerro

Attorney for Mr. Morales Hernandez

Email:fernanda@ezquerrolawgroup.com

EXHIBIT A

1 Maria Fernanda Ezquerro
2 430 Nutmeg Street, Suite 100
3 San Diego, CA 92103
4 (619)674-3250
5 Fernanda@ezquerrolawgroup.com

6 Attorney for Willin Galindo Morales Hernandez

7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 WILLIN GALINDO MORALES
10 HERNANDEZ,

11 Petitioner,

12 v.

13 WARDEN, Imperial Regional Detention
14 Facility,

15 Respondents.

CIVIL CASE NO.: 26-cv-3570-CAB-
SBC

**First Declaration
of
Willin Galindo Morales Hernandez**

16 I, Willin Galindo Morales Hernandez, declare:

- 17 1. I entered the United States approximately in 2008. I was not apprehended at
18 the border; I entered undetected. I lived in the U.S., specifically New York
19 for over 20 years. I began working as a cook and started a family.
20
21 2. I was arrested by ICE on January 7, 2025, during a routine check-in with my
22 probation officer. They did not show me a warrant for my arrest.
23
24 3. On June 22, 2026, an IJ ordered my removal. I have until July 22, 2026, to
25 file my appeal. I plan to appeal the IJ's decision.
26
27 4. I have about no savings. I do not have anything else of value, like a house or
28 a car. I do not think I can afford an attorney.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, Fernanda Ezquerro, declare under penalty of perjury that I read every line of this declaration to Mr. Willin Galindo Morales Hernandez, and he confirmed that it was true and correct.

Date: July 6, 2026

Signed: /s/ *Fernanda Ezquerro*