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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RICARDO JAVIER BRACHO MORAN, [redacted]

Petitioner,

v.

ACTING FIELD OFFICE DIRECTOR of the San Diego Field Office, U.S. Immigration and Customs Enforcement, in his/her official capacity;
WARDEN of Imperial Regional Detention Facility in his/her official capacity;
MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, in his official capacity;
DAVID J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement, in his official capacity;
TODD BLANCHE, Acting Attorney General of the United States, in his official capacity;

Respondents.

Case No.: '26CV3775 RFL MMP

PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

PLEADING TITLE: PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

Petitioner Ricardo Javier Bracho Moran, by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 as follows:

I. PRELIMINARY STATEMENT

This petition challenges the lawfulness of Petitioner's detention. Petitioner was arrested from the interior of the United States, with a pending asylum application, no failure to appear, and full compliance with the government's reporting requirements. He was detained without any individualized determination that detention was necessary.

Petitioner does not challenge removability, the merits of any application for relief, or any decision of the Immigration Court. He challenges only the unlawful nature of his detention and the government's authority to detain him under § 1225(b)(2).

II. QUESTIONS PRESENTED

1. Whether the government may lawfully detain Petitioner, a noncitizen arrested from the interior of the United States with a pending asylum application, absent any individualized determination justifying civil detention.

2. If any detention is authorized, whether Petitioner's custody is governed by 8 U.S.C. § 1225(b)(2) or by the discretionary detention framework of 8 U.S.C. § 1226(a).

III. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1331 because Petitioner is in federal custody and challenges the legality of that detention.

4. This Court has personal jurisdiction over Respondents because they exercise legal and physical custody over Petitioner within the Southern district of California.

5. Under 28 U.S.C. § 2241 and § 1391(b), (e), venue is proper in this District because Petitioner is detained at Imperial Regional Detention Facility in Calexico, California, and Respondent Warden, his immediate custodian, is located within this District.

IV. HABEAS CORPUS LEGAL STANDARD

6. The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). Section 2241 of Title 28 confers the federal courts with the power to issue writs of habeas corpus to persons "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241. This includes challenges by non-citizens in immigration related matters. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

V. PARTIES

7. Petitioner Ricardo Javier Bracho Moran is a native and citizen of Venezuela who is currently detained by U.S. Immigration and Customs Enforcement ("ICE").

8. Respondent Acting Field Office Director of the ICE San Diego Field Office, which has administrative jurisdiction over Petitioner's detention. He / She is sued in his / her official capacity.

9. Respondent Warden of the Imperial Regional Detention Facility. In that capacity, he / she is the immediate custodian of Petitioner. He / She is sued in his / her official capacity.

10. Respondent Markwayne Mullin, Secretary of DHS, oversees immigration enforcement policies and is sued in his official capacity.

11. Respondent David J. Venturella, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement, oversees ICE detention operations nationwide and is sued in his official capacity.

12. Respondent Todd Blanche, in his official capacity as Acting U.S. Attorney General, is responsible for the administration of immigration laws as exercised by the Executive Office for Immigration Review, pursuant to INA § 103(g), 8 U.S.C. § 1103(g), routinely transacts business in the Southern District of California, and is legally responsible for administering any removal proceedings initiated against Petitioner and the standards used in those proceedings, and as such is the legal custodian of Petitioner.

VI. FACTUAL BACKGROUND

13. Petitioner entered the United States on or about September 16, 2021.

14. Upon his entry DHS arrested Petitioner and released him on his own recognizance subject to certain conditions of release. Petitioner complied with the conditions of his release and reported as directed by DHS. Ex. A, Order of Release on Recognizance.

15. DHS subsequently issued Petitioner an Employment Authorization Document ("EAD"). Ex. B – EAD Approval Notice.

16. Petitioner was also granted Temporary Protected Status ("TPS"), valid from July 4, 2024, to April 2, 2025. Ex. C – TPS Approval Notice.

17. On January 15, 2025, the Immigration Court granted the parties' joint motion to dismiss Petitioner's removal proceedings without prejudice based on prosecutorial discretion. Ex.D, Order on Motion to Dismiss.

18. On or about April 10, 2025, USCIS received Petitioner's Form I-589, Application for Asylum and for Withholding of Removal. Ex. E, Form I-589 Receipt Notice.

19. Petitioner and his wife have two minor children, one of whom is a United States citizen. Ex. F, Passports.

20. Petitioner was employed with Mid-State Metals LLC as a Driver and remained in good standing with the company at the time of his detention. Ex. G, Employment Verification Letter.

21. On or about May 29, 2026, Petitioner was driving a company truck when he was stopped by Florida Highway Patrol near Lakeland, Florida. Following the traffic stop, Petitioner was arrested and detained by ICE.

22. Following his detention, Petitioner was transferred multiple times before ultimately being transferred to California. ICE is now detaining Petitioner at the Imperial Regional Detention Facility in Calexico, California. Ex. H, DHS Detainee Locator.

23. Petitioner has no criminal record and has never been convicted of a crime. Petitioner has complied with DHS reporting requirements and has no prior orders of removal.

VII. EXHAUSTION OF REMEDIES

24. No statutory exhaustion requirement applies to petitions for habeas corpus under 28 U.S.C. § 2241. See *Zadvydas*, 533 U.S. at 688.

25. Prudential exhaustion is likewise inapplicable here because Petitioner has no available administrative remedy through which he could obtain the relief he seeks. Immigration Judges and the Board of Immigration Appeals lack authority to adjudicate constitutional challenges to detention statutes or to order release where DHS asserts mandatory detention authority. See *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020); *Matter of C--*, 20 I. & N. Dec. 529, 532 (BIA 1992); *Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004).

26. Where no administrative mechanism exists to provide the relief requested, exhaustion is not required. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

VIII. LEGAL FRAMEWORK GOVERNING LAWFUL IMMIGRATION DETENTION

27. Civil immigration detention is not punitive. It is a limited regulatory tool authorized by Congress for specific purposes and under specific statutory frameworks. A noncitizen may be detained only where Congress has authorized detention and only where that detention is reasonably related to its permissible civil purposes.

A. Congress Created a Limited, Two-Track Detention Scheme

28. As relevant here, Congress has authorized immigration detention through two principal statutory provisions relevant here.

    a. **8 U.S.C. § 1225(b)(2)** governs inspection and initial entry.

    b. **8 U.S.C. § 1226(a)** governs detention pending removal proceedings.

29. Section 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A).

30. Section § 1226(a) states:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c)[1] and pending such decision, the Attorney General—

[1] Subsection (c) refers to the "[d]etention of criminal aliens," which does not apply here. *See* 8 U.S.C. §1226(c). The parties do not contend that Petitioner has been convicted of any crime listed under 8 U.S.C. §1227(a)(2)(A).

> (1) may continue to detain the arrested alien; and
>
> (2) may release the alien on—
>
> (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
>
> (B) conditional parole . . . .

Id. § 1226(a).

31. The plain language of these provisions indicates that both § 1225 and § 1226 govern the detention of noncitizens pending removal proceedings. The difference is that § 1225 provides for mandatory detention and governs detention at or near the threshold of entry and applies at the initial stage of the immigration process, while and § 1226 allows for the release of the noncitizen on conditional parole or bond and governs detention of noncitizens who have been arrested and detained pending a decision on whether they are to be removed from the United States.

32. These statutory provisions are mutually exclusive. Which statute applies depends on the noncitizen's posture within the immigration system and the circumstances of the arrest.

B. Immigration Detention Is Civil and Constitutionally Limited

33. Although Congress has broad authority over immigration, immigration detention remains civil detention, not criminal punishment. As such, it is subject to constitutional limits.

34. The Supreme Court has repeatedly emphasized that civil detention is justified only insofar as it is reasonably related to its regulatory purposes and may not be imposed arbitrarily. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001). Where detention ceases to serve those purposes, it exceeds the government's authority.

35. Freedom from bodily restraint lies at the core of the liberty protected by the Due Process Clause, and detention without a justification tied to a legitimate regulatory purpose constitutes

arbitrary government action. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Government action that withdraws liberty without reasoned justification violates fundamental principles of due process. *Id.*

36. Accordingly, even where Congress has authorized immigration detention, the government must be able to articulate a lawful basis for detaining a particular individual, such as ensuring appearance at proceedings or protecting the community, and detention imposed as a matter of default or administrative convenience is unlawful.

C. Lawful Immigration Detention Requires a Statutory Trigger and an Individualized Basis

37. The Supreme Court has upheld certain forms of immigration detention where Congress relied on concrete concerns such as flight risk or danger to the community and where detention was understood to be temporary and closely tied to the removal process. *Demore v. Kim*, 538 U.S. 510, 528–30 (2003).

38. Conversely, where detention lacks a statutory trigger or is imposed without any individualized justification, it becomes arbitrary as applied and exceeds the government's civil detention authority. *Zadvydas*, 533 U.S. at 690–91. The availability of habeas relief in such circumstances remains intact. *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

D. Application to Petitioner

39. Here, neither detention framework was lawfully triggered.

40. Petitioner was arrested from the interior of the United States after his prior removal proceedings had been dismissed, while his asylum application remained pending before USCIS. Petitioner has never been convicted of a crime, has no failure to appear, has no prior

order of removal, and complied with ICE reporting requirements. Respondents made no individualized determination that Petitioner posed a flight risk or danger to the community.

41. Under these circumstances, detention was not authorized in the first instance. Alternatively, if detention were permissible at all, it could proceed only under 8 U.S.C. § 1226(a), which governs discretionary detention pending removal proceedings and requires an individualized custody determination.

42. Respondents' reliance on 8 U.S.C. § 1225(b)(2), a mandatory detention provision governing initial admissibility determinations, provides no lawful basis for Petitioner's confinement.

43. Accordingly, the Court should find that § 1226(a), not § 1225(b)(2)(A), governs Petitioner, who has resided in the United States and was already within the United States when apprehended and arrested.

IX. ARGUMENT

COUNT I – Violation of the Fifth Amendment Due Process Clause as Applied
(Petitioner's Detention Is Arbitrary and Unlawful as Applied)

44. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.

45. The Due Process Clause protects all persons within the United States, regardless of status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It forbids detention that is arbitrary, purposeless, or devoid of procedure.

46. Petitioner has a fundamental interest in liberty and being free from official restraint. Government decisions that are arbitrary are not compatible with due process. See *Foucha v. Louisiana, 504 U.S. 71, 80 (1992*).

47. Even where Congress has authorized civil immigration detention, that authority is constitutionally limited. Immigration detention is civil, not punitive, and is justified only to the extent it is reasonably related to its permissible purposes, principally, ensuring appearance at proceedings and protecting the community. *Zadvydas*, 533 U.S. at 690–91.

48. Here, Petitioner's detention is arbitrary as applied. Respondents reversed Petitioner's custodial status without any change in facts, conduct, or circumstances. When DHS released Petitioner in 2021, it necessarily determined that he did not pose a danger to the community and was not a flight risk. Almost 5 years later, DHS re-detained Petitioner without any individualized reassessment and without identifying any new evidence to justify a different conclusion.

49. Courts have long recognized that unexplained agency reversals and decisions that ignore prior factual determinations and reliance interests are the hallmark of arbitrary government action. Cf. Motor Vehicle Mfrs. Ass'n v. State Farm, 463 U.S. 29, 42 (1983) (so holding in the APA arbitrary-and-capricious context). Respondents' conduct here reflects precisely that defect.

50. Petitioner did exactly what the Government required of him. He reported as directed, complied with the conditions of his release, requested employment authorization, and structured his life around the permissions DHS extended to him. Having required Petitioner's compliance and permitted him to remain at liberty under supervision, the Government now treats that same compliance as irrelevant. This arbitrary reversal of Petitioner's custodial status, without any individualized reassessment or changed circumstances, is arbitrary as applied and violates due process.

51. The Supreme Court has upheld certain forms of mandatory immigration detention only where detention was justified by concrete concerns regarding flight risk or public safety and where

detention was understood to be temporary and closely tied to the removal process. *Demore v. Kim*, 538 U.S. 510, 528–30 (2003). Those justifications are absent here.

52. Where detention lacks both statutory authorization and an individualized, purpose-based justification, it exceeds the government's civil detention authority and violates due process as applied. *Zadvydas*, 533 U.S. at 690; *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (leaving open as-applied constitutional challenges to immigration detention).

53. Moreover, detaining Petitioner despite his long-standing compliance with release conditions undermines the purpose of supervision and offends basic principles of fairness.

54. Petitioner was arrested and detained without a warrant, without probable cause findings, and without any individualized custody determination. Therefore, his continued confinement is arbitrary and unlawful.

55. Accordingly, Petitioner's continued detention must cease.

COUNT II – Violation of the Immigration and Nationality Act (8 U.S.C. §§ 1225, 1226)
(Petitioner's Detention Is Unlawful; Alternatively, Any Detention Must Proceed Under 8 U.S.C. § 1226(a))

56. Even if the Court concludes that Respondents possessed authority to detain Petitioner, any such detention must proceed under 8 U.S.C. § 1226(a).

57. Petitioner was released into the interior of the United States, previously had removal proceedings under INA § 240 that were dismissed without prejudice, and was later arrested from the interior while his asylum application remained pending before USCIS.

58. He was not detained at the time of inspection or during an initial admissibility determination.

59. Section 1225(b)(2) does not authorize detention of a noncitizen who has been released into the interior, complied with DHS reporting requirements, and was later arrested from the interior while his asylum application remained pending before USCIS.

60. Because Respondents are detaining Petitioner under the incorrect statutory provision, the detention lacks statutory authorization and is unlawful.

X. HABEAS RELIEF

61. Because Respondents lack statutory authority to detain Petitioner under § 1225(b)(2), and because Petitioner's detention is arbitrary and unconstitutional as applied, the appropriate remedy is immediate release. *Zadvydas*, 533 U.S. at 699 (where detention is not authorized, release is required).

62. Where detention itself is unlawful, a bond hearing is an insufficient remedy. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (writ must be effective; remedy must end unlawful detention). Bond hearings are remedies under § 1226. They are not cures for unlawful detention under the wrong statute.

63. Where detention rests on an incorrect statutory basis, the proper habeas remedy is release, not prolonged custody pending further proceedings. Continued detention inflicts irreparable harm and rewards the Government for asserting an overbroad reading. The writ exists to remedy unlawful physical restraint. Once the asserted statutory basis fails, continued detention lacks legal authorization, and release, not a prospective hearing, is the appropriate remedy.

64. Release from custody would not prevent DHS or EOIR from initiating or continuing any lawful immigration proceedings against Petitioner.

65. Only if the Court concludes that detention may lawfully proceed under 8 U.S.C. § 1226(a) should the Court order a prompt bond hearing as an alternative form of relief.

XI. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court

66. Assume jurisdiction over this action and issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241;

67. Declare that Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2) is unlawful.

68. Immediately enjoin Respondents from transferring Petitioner outside the Southern District of California pending resolution of this Petition, so as to preserve this Court's jurisdiction and Petitioner's access to counsel;

69. Direct Respondents to show cause, within three (3) days of service of the Petition and any order issued by this Court, why the writ should not be granted.

70. Order Respondents to immediately and unconditionally release Petitioner from custody under the same conditions that existed prior to his detention, including but not limited to release without the imposition of additional conditions, as Petitioner's detention was unlawful *ab initio*;

71. Only in the alternative, if the Court concludes that detention may lawfully proceed under 8 U.S.C. § 1226(a), order Respondents to provide Petitioner with a prompt bond hearing before an Immigration Judge;

72. Enjoin Respondents from transferring Petitioner outside this District without prior approval of this Court;

73. Enjoin Respondents from re-arresting or otherwise detaining Petitioner absent a warrant and unless Petitioner commits a criminal offense, fails to attend a properly noticed immigration hearing, or is subject to a final removal order pursuant to 8 U.S.C. § 1231;

74. Order that any future detention of Petitioner must comply with all statutory and constitutional requirements, including the identification of a lawful statutory basis for detention and the provision of adequate procedural and substantive due process;

75. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Dated: June 26, 2026

Respectfully Submitted,

__s/ *Nicolette Glazer*
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Pro Hac Vice forthcoming

VERIFICATION

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

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