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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GUSTAVO RAMIREZ GARCIA,

Petitioner,

v.

Warden, Central Valley Annex;

Markwayne MULLIN, Secretary, U.S.

Department of Homeland Security;

Todd LYONS, Acting Director, U.S.

Immigration and Customs Enforcement;

Todd BLANCHE, Acting Attorney General of the

United States, U.S. Department of Justice.

Respondents

Case No.: 1:26-cv-05117-EJD



**FIRST AMENDED PETITION
FOR WRIT OF HABEAS
CORPUS AND ORDER TO
SHOW CAUSE**

1 1. Petitioner, Gustavo Ramirez Garcia, files this First Amended Petition pursuant to the
2 Court's July 14, 2026 Minute Order granting leave to amend. Petitioner seeks a writ of habeas
3 corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued immigration
4 detention and alleges as follows:

5 **INTRODUCTION**

6 2. Petitioner, Gustavo Ramirez Garcia, is a native and citizen of Mexico currently
7 detained at the Central Valley Annex in McFarland, California.

8 3. Petitioner entered the United States without inspection on or about 2004 and thereafter
9 resided continuously in the United States for approximately twenty-two years before being taken
10 into immigration custody.

11 4. On or about June 5, 2026, Petitioner was arrested by local law enforcement in
12 Oklahoma. After posting the bond set in the state proceedings, ICE assumed custody of
13 Petitioner and placed him in immigration detention.

14 5. Petitioner was never encountered by immigration authorities at or near the border at
15 the time of entry and was not subjected to inspection, expedited removal proceedings, credible
16 fear screening, or any form of initial processing under INA § 235.

17 6. Petitioner's arrest did not occur at or near the border, was not connected to any
18 inspection or admission process, and did not arise from any ongoing expedited removal
19 proceeding or front-end border-processing detention framework under INA § 235.

20 7. Following his arrest, Petitioner was transferred through ICE detention facilities before
21 arriving at the Central Valley Annex in McFarland, California, where he remains detained.

22 8. Despite these facts, DHS is treating Petitioner as subject to detention under INA §
23 235(b), rather than INA § 236(a), thereby denying him access to the individualized custody
24 determination ordinarily available to noncitizens apprehended in the interior of the United States
25 and placed in removal proceedings.

26 9. This habeas petition challenges that unlawful custody classification. INA § 235(b)
27 governs front-end, border-processing detention authority and does not permit the government to
28

1 invoke that authority for the first time approximately twenty-two years after entry against a
2 noncitizen apprehended during an interior enforcement operation unrelated to any inspection or
3 admission process.

4 10. Where DHS takes a noncitizen into custody under these circumstances, detention—if
5 lawful at all—must proceed under INA § 236(a), which governs detention pending removal
6 proceedings and provides the custody procedures ordinarily available to noncitizens apprehended
7 in the interior of the United States.

8 11. DHS's contrary position, including its reliance on *Matter of Yajure-Hurtado*, would
9 erase the statutory distinction between INA § 235 and INA § 236(a), allowing the government to
10 treat any noncitizen who entered without inspection—no matter how long ago—as though he
11 were an arriving applicant for admission at the border.

12 12. Petitioner does not challenge the initiation of removal proceedings or the merits of
13 removability. Rather, he challenges only the legal basis of his detention and DHS's unlawful
14 custody classification under INA § 235(b) instead of INA § 236(a).

15 13. Petitioner's continued detention without access to the custody procedures available
16 under INA § 236(a) violates the Immigration and Nationality Act and the Due Process Clause of
17 the Fifth Amendment.

18 14. Petitioner therefore respectfully requests that this Court declare his detention
19 unlawful and order his immediate release from custody or, in the alternative, order Respondents
20 to provide Petitioner with a prompt constitutionally adequate custody hearing before a neutral
21 decisionmaker at which Respondents bear the burden of establishing, by clear and convincing
22 evidence, that Petitioner's continued detention is necessary because he presents a danger to the
23 community or a risk of flight, and at which less restrictive alternatives to detention are
24 considered.

25 **CUSTODY**

26

27

1 15. Petitioner is currently in the legal and physical custody of Respondents and is
2 detained at the Central Valley Annex in McFarland, California, within the jurisdiction of this
3 Court.

4 **JURISDICTION AND VENUE**

5 16. This action arises under the United States Constitution and the Immigration and
6 Nationality Act, 8 U.S.C. § 1101 et seq.

7 17. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is presently
8 detained within this District under color of federal authority and challenges the legality of that
9 detention.

10 18. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises
11 under the Constitution and laws of the United States, including the Immigration and Nationality
12 Act and the Due Process Clause of the Fifth Amendment.

13 19. Federal district courts possess broad authority to issue writs of habeas corpus where a
14 person is held “in custody in violation of the Constitution or laws or treaties of the United
15 States.” 28 U.S.C. § 2241(c)(3). Petitioner seeks the traditional habeas remedy of release from
16 allegedly unlawful detention and does not challenge the merits of removability or any final order
17 of removal. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

18 20. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction.
19 Petitioner challenges only the statutory and constitutional basis of his detention and DHS’s
20 custody classification under INA § 235(b), not the decision to commence removal proceedings or
21 execute a removal order.

22 21. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because
23 Petitioner is detained within this District and his immediate custodian resides within this District.

24 **PARTIES**

25 22. Petitioner, Gustavo Ramirez Garcia, is a native and citizen of Mexico currently
26 detained at the Central Valley Annex in McFarland, California.

1 23. Respondent Warden of the Central Valley Annex in McFarland, California is
2 Petitioner's immediate custodian and is responsible for his confinement. The Warden is sued in
3 his official capacity.

4 24. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland
5 Security (DHS).

6 25. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs
7 Enforcement (ICE).

8 26. Respondent Todd Blanche is the Acting Attorney General of the United States and
9 the head of the U.S. Department of Justice (DOJ).

10 27. All Respondents are named in their official capacities.

11 **STATEMENT OF FACTS**

12 28. Petitioner, Gustavo Ramirez Garcia, is a native and citizen of Mexico currently
13 detained at the Central Valley Annex in McFarland, California.

14 29. Petitioner entered the United States without inspection in approximately 2004 and
15 thereafter resided continuously in the United States for approximately twenty-two years before
16 being taken into immigration custody.

17 30. Petitioner was never encountered by immigration authorities at or near the border at
18 the time of entry and was never subjected to inspection, expedited removal proceedings,
19 credible-fear screening, or any form of initial processing under INA § 235.

20 31. During his residence in the United States, Petitioner established substantial family
21 and community ties. He married a United States citizen, became the father of two United States
22 citizen children, and obtained approval of the Form I-130 immigrant petition filed on his behalf.

23 32. On or about June 5, 2026, Petitioner was arrested by local law enforcement in
24 Oklahoma. After Petitioner posted the bond set in the state proceedings, ICE assumed custody of
25 Petitioner and placed him in immigration detention.

26 33. Petitioner's immigration arrest occurred in the interior of the United States
27 approximately twenty-two years after his entry. It did not occur at or near the border, was

1 unrelated to any inspection or admission process, and did not arise from any ongoing expedited-
2 removal proceeding or other front-end processing under INA § 235.

3 34. Following his arrest, Petitioner was transferred through ICE detention facilities before
4 ultimately being transferred to the Central Valley Annex in McFarland, California, where he
5 remains detained.

6 35. DHS is treating Petitioner as subject to mandatory detention under INA § 235(b),
7 notwithstanding that his first encounter with immigration authorities occurred during an interior
8 arrest approximately twenty-two years after entry and that he was never subjected to inspection
9 or processing under INA § 235.

10 36. Because DHS has classified Petitioner's detention as governed by INA § 235(b),
11 Petitioner has been denied a meaningful opportunity to obtain release through an individualized
12 custody determination under INA § 236(a).

13 37. Absent relief from this Court, Petitioner faces continued mandatory detention under
14 an unlawful statutory classification and without access to the custody procedures available under
15 INA § 236(a).

16 **REQUIREMENTS OF 28 U.S.C. § 2243**

17 38. Under 28 U.S.C. § 2243, the Court “must” grant the petition for a writ of habeas
18 corpus or issue an order to show cause (“OSC”) “forthwith,” unless the petitioner is not entitled
19 to relief. If an OSC is issued, the statute requires that Respondents file a return “within three
20 days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
21 (emphasis added).

22 39. Federal courts have long emphasized the importance of habeas corpus as a
23 protection against unlawful restraint. The Supreme Court has described the Great Writ as
24 “perhaps the most important writ known to the constitutional law of England, affording as it
25 does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v.*
26 *Noia*, 372 U.S. 391, 400 (1963).

1 40. Congress and the courts have repeatedly reaffirmed that habeas corpus must remain
2 a prompt and expeditious remedy. As the Ninth Circuit has explained, “The statute itself directs
3 courts to give petitions for habeas corpus ‘special, preferential consideration to insure
4 expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)
5 (citation omitted). The court cautioned that delays in habeas proceedings risk creating the
6 impression “that courts are more concerned with efficient trial management than with the
7 vindication of constitutional rights.” *Id.*

8 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

9 41. In habeas corpus proceedings, exhaustion of administrative remedies is prudential
10 rather than jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Courts may
11 waive prudential exhaustion where administrative remedies are inadequate, futile, or incapable of
12 providing the relief sought. *Id.*

13 42. Exhaustion should be excused here because, to the extent DHS classifies Petitioner as
14 detained under INA § 235(b), Immigration Judges lack jurisdiction to conduct custody
15 redetermination hearings. See 8 C.F.R. § 1003.19(h)(2)(i)(B). Accordingly, no meaningful
16 administrative mechanism exists through which Petitioner may challenge DHS’s custody
17 classification or obtain a custody determination under INA § 236(a).

18 43. Petitioner’s claims also present pure questions of law and constitutional questions
19 concerning the statutory basis of his detention and DHS’s authority to invoke INA § 235(b)
20 under these circumstances. Such claims fall outside the agency’s adjudicatory competence and
21 remain subject to habeas review under 28 U.S.C. § 2241.

22 44. Petitioner further suffers irreparable harm for each additional day he remains detained
23 without access to the custody procedures available under INA § 236(a). Under these
24 circumstances, prudential exhaustion should be waived.

25 **LEGAL FRAMEWORK**

26 45. The Immigration and Nationality Act (“INA”), codified at 8 U.S.C. § 1101 et seq.,
27 provides multiple detention authorities that apply at different stages of the immigration process.

1 For decades, courts, Congress, and agencies have consistently distinguished between two distinct
2 statutory frameworks: INA § 235 (8 U.S.C. § 1225), which governs applicants for admission
3 encountered at or near the border, and INA § 236 (8 U.S.C. § 1226), which governs the arrest
4 and detention of individuals already present in the United States and placed in removal
5 proceedings. The Supreme Court analyzed the interplay between these provisions in *Jennings v.*
6 *Rodriguez*, 583 U.S. 281 (2018).

7 46. Section 1225 provides that, for purposes of initial inspection at the border, “an alien
8 who arrives in the United States or is present in this country but has not been admitted, is treated
9 as an applicant for admission.” *Jennings*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). The
10 Court explained that decisions concerning who may enter or remain in the United States
11 “generally begin at the Nation’s borders and ports of entry, where the Government must
12 determine whether an alien seeking to enter the country is admissible.” *Id.* Section 1225(b)
13 governs this inspection and admission process, applying primarily to individuals encountered at
14 or near the border, subjecting them either to expedited removal under § 1225(b)(1)—which
15 includes a credible-fear process for those expressing an intent to seek asylum—or to detention
16 pending a decision on admission under § 1225(b)(2). *Id.* at 297; see also *Dep’t of Homeland Sec.*
17 *v. Thuraissigiam*, 591 U.S. 103 (2020).

18 47. By contrast, § 1226(a) governs the detention of individuals who entered years ago and
19 were later apprehended in the interior, “pending a decision on whether [they are] to be removed
20 from the United States.” *Jennings*, 583 U.S. at 303. Unlike § 1225, which applies at the border, §
21 1226(a) authorizes the Attorney General to detain or release such individuals on bond or
22 conditional parole, except as provided in subsection (c), which applies only to a narrow category
23 of noncitizens with specified criminal or security-related grounds. *Id.* at 303, 306. Arrests made
24 pursuant to § 1226(a) are ordinarily executed on administrative warrants, and longstanding
25 regulations confirm that such individuals are eligible for Immigration Judge bond hearings. See 8
26 C.F.R. §§ 236.1(c)(8), 236.1(d)(1), 1236.1(d)(1); 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
27 Congress further described § 1226(a) as merely a “restatement” of prior detention authority

1 under former INA § 242(a), confirming its application to interior arrests pending removal. H.R.
2 Rep. No. 104-469, pt. 1, at 229 (1996).

3 48. For decades, detention under INA § 235(b) has been understood to apply in
4 connection with the inspection and admission process at or near the border, not to individuals
5 apprehended in the interior of the United States who were never subjected to that process.

6 49. Only in 2025 did DHS and the Board of Immigration Appeals begin advancing, in
7 certain proceedings, a contrary interpretation—asserting that noncitizens who entered without
8 inspection could be treated as subject to detention under § 1225(b)(2). This interpretation
9 represented a departure from longstanding agency practice and contradicted settled expectations
10 regarding custody jurisdiction.

11 50. On July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”), in
12 coordination with the Department of Justice, issued Interim Guidance Regarding Detention
13 Authority for Applicants for Admission. The guidance asserted that noncitizens who entered
14 without inspection were subject to mandatory detention under INA § 235(b)(2)(A), regardless of
15 when or where they were apprehended, including individuals who had resided in the United
16 States for many years.

17 51. The Board of Immigration Appeals later adopted a similar statutory interpretation in
18 *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

19 52. The legality of this interpretation has since become the subject of ongoing federal
20 litigation. In *Maldonado-Bautista v. Santacruz*, the United States District Court for the Central
21 District of California issued a declaratory judgment vacating DHS’s July 8, 2025 interim
22 guidance under the Administrative Procedure Act. See *Maldonado-Bautista v. Santacruz*, No.
23 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025).

24 53. The district court subsequently granted a motion to enforce that judgment and vacated
25 the Board of Immigration Appeals’ decision in *Matter of Yajure-Hurtado*, concluding that the
26 agency could not rely on that decision to continue applying the same detention interpretation
27 previously rejected by the court.

54. The government appealed those rulings to the United States Court of Appeals for the Ninth Circuit. See *Bautista v. U.S. Department of Homeland Security*, No. 26-1044 (9th Cir.). On March 6, 2026, the Ninth Circuit issued an administrative stay pending resolution of the government's emergency motion for a stay pending appeal. The court temporarily stayed the district court's December 18, 2025 judgment insofar as it extended beyond the Central District of California and also temporarily stayed the district court's February 18, 2026 enforcement order vacating *Matter of Yajure-Hurtado*. The appeal remains pending.

55. As a result, immigration courts within this circuit have continued to treat *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), as binding precedent when determining custody jurisdiction. In practice, noncitizens apprehended in the interior of the United States long after entry continue to be denied bond hearings based on the assertion that detention is governed by INA § 235 rather than INA § 236(a).

56. INA § 235(b) authorizes detention only in connection with the inspection and admission process. That authority is event-based, not status-based. Where a noncitizen is not apprehended at or near the border and is not placed in the inspection process, the statutory predicate for § 235 custody does not exist.

57. Separately, in *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), the Attorney General addressed detention authority for certain asylum seekers who remained in continuous custody during expedited removal proceedings. *Matter of M-S-* presumes uninterrupted detention under INA § 235(b) and does not address circumstances in which DHS seeks to apply INA § 235(b) to a noncitizen who was never subjected to inspection, expedited removal, credible fear screening, or any form of initial processing under INA § 235.

58. Applying INA § 235(b) to Petitioner despite his residence in the United States for approximately twenty-two years and his apprehension during an interior law-enforcement encounter in Oklahoma, unrelated to any inspection or admission process, would effectively permit DHS to subject virtually any noncitizen who entered without inspection—regardless of

1 how many years ago—to mandatory detention without bond, thereby collapsing the distinction
2 between INA § 235 and INA § 236(a).

3 **CLAIM FOR RELIEF**

4 **COUNT 1**

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

6 59. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all
7 preceding paragraphs.

8 60. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
9 noncitizens present in the United States who are subject to grounds of inadmissibility. Congress
10 expressly limited the summary border-processing framework of INA § 235 to individuals
11 encountered at or near the time of entry. Petitioner has been physically present in the United
12 States for approximately twenty-two years after entry and therefore falls well outside the scope
13 of this front-end inspection regime.

14 61. Petitioner was never encountered by immigration authorities at or near the border,
15 was not subjected to inspection or expedited removal, and was not processed under INA § 235 at
16 any point. Instead, on or about June 5, 2026, following an encounter with local law enforcement
17 in Oklahoma, ICE assumed custody of Petitioner and placed him in immigration detention
18 approximately twenty-two years after he entered the United States.

19 62. Under these circumstances, detention—if lawful at all—must proceed under INA §
20 236(a) (8 U.S.C. § 1226(a)), which governs the arrest and detention of noncitizens pending a
21 decision on removal and provides for the possibility of release on bond or conditional parole. See
22 *Jennings v. Rodriguez*.

23 63. The application of INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)) to Petitioner unlawfully
24 mandates his continued detention in violation of the INA. By treating Petitioner as an applicant
25 for admission rather than a respondent subject to detention under INA § 236(a), DHS has acted
26 contrary to the statutory text and longstanding agency practice.

64. By treating Petitioner as an applicant for admission subject to INA § 235(b), rather than as a noncitizen detained under INA § 236(a), DHS has disregarded the statutory structure of the INA and collapsed the distinction between these two separate detention frameworks.

65. DHS's interpretation would permit the government to subject virtually any noncitizen who entered without inspection—regardless of how long ago—to mandatory detention without bond, thereby rendering INA § 236(a) largely meaningless for a broad class of individuals. Nothing in the text or structure of the INA supports such an expansive reading of INA § 235.

66. Accordingly, Petitioner's continued detention under INA § 235(b) is unlawful. Petitioner is entitled to habeas relief, including immediate release from custody. In the alternative, if the Court declines to order immediate release, Petitioner is entitled to a prompt constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents a danger to the community or a risk of flight, and at which less restrictive alternatives to detention are considered.

COUNT 2

Violation of the Due Process Clause of the Fifth Amendment

67. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, the allegations in the paragraphs above.

68. The Fifth Amendment provides that no person shall be deprived of liberty without due process of law. U.S. CONST. amend. V.

69. The protections of the Due Process Clause apply to all persons within the United States, including noncitizens, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

70. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Id.* at 690.

1 71. Immigration detention is civil in nature and is constitutionally permissible only when
2 reasonably related to legitimate governmental objectives, such as ensuring appearance at
3 proceedings or protecting the community. *Id.* at 690–91.

4 72. Petitioner—who has lived in the United States for approximately twenty-two years
5 and whose first encounter with immigration authorities occurred only after an interior arrest in
6 Oklahoma on or about June 5, 2026—has been subjected to detention that is not meaningfully
7 tied to any front-end inspection or admission purpose under INA § 235.

8 73. By classifying Petitioner’s custody as governed by INA § 235(b) and thereby denying
9 him access to the custody procedures available under INA § 236(a), Respondents have deprived
10 Petitioner of any meaningful opportunity for an individualized custody determination before a
11 neutral decisionmaker.

12 74. The continued detention of Petitioner under INA § 235(b), notwithstanding his
13 residence in the United States for approximately twenty-two years and his apprehension during
14 an interior law-enforcement encounter unrelated to any inspection or admission process,
15 constitutes an arbitrary deprivation of liberty in violation of the Due Process Clause of the Fifth
16 Amendment.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Petitioner respectfully requests that this Court:

19 A) Assume jurisdiction over this matter;

20 B) Issue the writ of habeas corpus or, in the alternative, an order to show cause directing
21 Respondents to show cause, within three days of the filing of this Petition, why the relief
22 requested should not be granted, and set a hearing within five days of Respondents’ return,
23 consistent with 28 U.S.C. § 2243;

24 C) Declare that Petitioner’s continued detention under INA § 235(b) violates the Immigration
25 and Nationality Act and the Due Process Clause of the Fifth Amendment;

26 D) Declare that Respondents lack lawful authority to detain Petitioner under INA § 235(b), and
27 that any detention must proceed, if at all, under INA § 236(a);

1 E) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from
2 custody;

3 F) In the alternative, order Respondents to provide Petitioner with a prompt constitutionally
4 adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden
5 of establishing, by clear and convincing evidence, that Petitioner's continued detention is
6 necessary because he presents a danger to the community or a risk of flight, and at which less
7 restrictive alternatives to detention are considered;

8 G) Enjoin Respondents from transferring Petitioner outside this District without prior approval of
9 this Court;

10 H) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. §
11 2412, and any other basis authorized by law; and

12 I) Grant such other and further relief as the Court deems just and proper.

13 Respectfully submitted,

14 /s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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20 Counsel for Petitioner

21 Dated: July 15, 2026

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I submit this verification as counsel for Petitioner in this action. The factual allegations contained in this Petition are based on information provided to me by Petitioner and Petitioner's family members, as well as my review of available immigration records and detention information.

Based on that information, and to the best of my knowledge, information, and belief, I declare that the factual statements contained in this Petition are true and correct and accurately reflect Petitioner's circumstances and the procedural history of his detention.

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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Counsel for Petitioner

Dated: July 15, 2026