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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PULIDO-BERNAL, SALVADOR

Petitioner,

V.

MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security; TODD BLANCHE United States Attorney General; TODD LYONS, Director of United States Immigration and Customs Enforcement; BRYAN WILCOX, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security; John Mattos Warden, Nevada Southern Detention Center UNITED STATES DEPARTMENT OF HOMELAND SECURITY; UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;

Respondents

[redacted] Detained

Case File No.:

Immigration file No.: [redacted]

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

This is a petition for a writ of habeas corpus filed on behalf of Salvador Pulido Bernal ("Petitioner") seeking relief to remedy his unlawful detention. Respondents are detaining Petitioner pending his deportation proceedings. Petitioner has fully cooperated with Respondents for said proceedings. To date, Petitioner has been detained for more than thirty (30) days, since May 30, 2026.

See, Exhibit A, FORM I-213.

Petitioner is not a flight risk or a danger to the community. His prolonged detention is no longer justified under the Constitution or the Immigration and Nationality Act (INA).

On or about May 30, 2026, the Henderson Police Department detained Petitioner on suspicion of domestic violence; this case is still pending. *Id.*

Respondents placed Petitioner in the custody of the Nevada Southern Detention Center. Petitioner's detention is for the purpose of conducting his deportation proceedings.

The I-213 form refers to sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality act as the basis for petitioner's removal. *Id.*

On or about June 22, 2026, an Immigration Judge ("IJ") denied Petitioner bond, finding Petitioner is a danger to the community. *See,* Exhibit B, Bond Order.

Respondents' actions defy the U.S. Constitution and the Immigration and Nationality Act (INA). Petitioner seeks an order from this Court declaring his continued and prolonged detention unlawful and ordering Respondents to release Petitioner on parole under 8 USC §1226 (a)(2)(B) or, in the alternative, to provide him a bond hearing under 8 USC §1226 (a)(2)(A), enjoining Respondents from applying *Matter of Hurtado* or considering any criminal history that did not result in a criminal conviction or any misdemeanor convictions.

CUSTODY

1. Petitioner is in the physical custody of Respondents. At the time of the filing of this petition, Petitioner is detained at the Nevada Southern Detention Center ("NSDC") in Pahrump, NV. NSDC contracts with the Department of Homeland Security to detain aliens such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

3. Venue lies in the United States District Court for the District of Nevada, the judicial district where Petitioner is detained. 28 U.S.C. § 1391(e).

PARTIES

4. Petitioner is a national and citizen of Mexico. *See Exhibit A.*

5. Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security ("DHS"), an agency of the United States. He is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(a). Secretary Mullin is a legal custodian of Mr. Pulido. He is named in his official capacity. Respondent's address is Department of Homeland Security, Washington, D.C. 20528.

6. Respondent Todd Blanche is the Attorney General of the United States and the most senior official in the U.S. Department of Justice ("DOJ"). He has the authority to interpret immigration laws and adjudicate removal cases. 8 U.S.C. § 1103(g). The Attorney General delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which administrates the immigration courts and the BIA. He is named in his official capacity. Respondent's address is 950 Pennsylvania Avenue, NW, Washington, D.C. 20520-0001.

7. Respondent TODD LYONS is the Director of the United States Immigration and Customs Enforcement within the Department of Homeland Security, an agency of the United States. He is responsible for the administration and enforcement of immigration laws. He is named in his official capacity. Respondent's address is 500 12th St. SW, Washington, D.C. 20536.

8. Respondent Bryan Wilcox is the Field Office Director for Detention and

Removal, U.S. Immigration Customs and Enforcement, Department of Homeland Security. Pursuant to Respondent Wilcox's orders, Mr. Pulido remains detained. Respondent Wilcox is named in his official capacity. Respondent's address is 2975 Decker Lane Dr, Suite 100, West Valley City, UT 84119.

9. Respondent Warden is Petitioner's immediate custodian and resides in the judicial jurisdiction of the Ninth Circuit of the United States Court of Appeals. Warden is named in his official capacity.

10. The Department of Homeland Security (DHS) is a federal agency charged with administering statutes and regulations governing immigration pursuant to 6 U.S.C. §§ 111-115. Respondent's address is Department of Homeland Security, Washington, D.C. 20528.

11. The United States Immigration and Customs Enforcement is a federal sub-agency under DHS responsible for the administration and enforcement of the United States' immigration laws pursuant to 22 C.F.R. 127.4. Respondent's field office address here in Las Vegas is 501 S Las Vegas Blvd, Suite 200, Las Vegas, NV 89101.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. Petitioner has exhausted his administrative remedies to the extent required by law. Petitioner's only remedy is by way of this judicial action. That is, there is no statutory exhaustion requirement in 28 U.S.C § 2241. To the extent that this Court requires prudential exhaustion, it should be waived because "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." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004).

STATEMENT OF FACTS

13. Petitioner is a national and citizen of Mexico who entered the U.S. approximately in 2003. *See,* Exhibit C, Bond Motion.

14. Petitioner has now been in detention for more than thirty (30) days, since May 30, 2026 when ICE officers took Petitioner into custody. *See,* Exhibit A. Petitioner is charged as removable under Sections 212(a)(6)(A)(i) and 212(a)(7)(A) of the INA. *Id.*

15. Petitioner has misdemeanor convictions for drug possession in 2010, DUI in 2011, 2012, 2018, and 2023. *Id.*

16. Petitioner has deep roots in this community, including full-time employment and four (4) U.S. citizen, minor children. *See,* Exhibit C.

17. Prior to his detention, Petitioner was working, paying his taxes, and providing for his family. His continued detention deprives his family of his companionship and income. Nonetheless, the Immigration Judge denied bond.

Petitioner notes that prudential exhaustion is not required where "there are a number of exceptions to the general rule requiring exhaustion, covering situations such as where administrative remedies are inadequate or not efficacious, . . . [or]

irreparable injury will result . . . ." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation omitted). In addition, a court may waive an exhaustion requirement when "requiring resort to the administrative remedy may occasion undue prejudice to subsequent assertion of a court action." *McCarthy v. Madigan*, 503 U.S. 140, 146–47 (1992), superseded by statute on other grounds as stated in *Booth v. Churner*, 532 U.S. 731, 739–41 (2001). "Such prejudice may result . . . from an unreasonable or indefinite timeframe for administrative action." *Id.* at 147 (citing cases). Here, the exceptions regarding irreparable injury and agency delay apply and warrant waiving any prudential exhaustion requirement.

As with the irreparable harm analysis, "in cases involving a constitutional claim, a likelihood of success on the merits . . . strongly tips the balance of equities and public interest in favor of granting a preliminary injunction." *Baird*, 81 F.4th at 1048.

A. Irreparable Injury

The first exception to any prudential exhaustion requirement that applies here is that of irreparable injury. Each day Petitioner remains in detention is one in which his statutory rights have been violated and he could be free. Similarly situated district courts have repeatedly recognized this fact. As one court has explained, "because of delays inherent in the administrative process, BIA review would result in the very harm that the bond hearing was designed to prevent: prolonged detention without due process." *Hechavarria v. Whitaker*, 358 F. Supp.

3d 227, 237 (W.D.N.Y. 2019) (internal quotation marks omitted). Indeed, "if Petitioner is correct on the merits of his habeas petition, then Petitioner has already been unlawfully deprived of a [lawful] bond hearing[,] [and] . . . each additional day that Petitioner is detained without a [lawful] bond hearing would cause him harm that cannot be repaired." *Villalta v. Sessions*, No. 17-CV-05390-LHK, 2017 WL 4355182, at *3 (N.D. Cal. Oct. 2, 2017) (internal quotation marks and brackets omitted); see also *Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (similar). Other district courts have echoed these points.

The district courts that have recognized that irreparable harm exists here are well-supported by Ninth Circuit case law. At issue in this case is civil detention, which "violates due process outside of 'certain special and narrow nonpunitive circumstances.'" *Rodriguez*, 909 F.3d 5 See, e.g., *Perez v. Wolf*, 445 F. Supp. 3d 275, 286 (N.D. Cal. 2020); *Blandon v. Barr*, 434 F. Supp. 3d 30, 37 (W.D.N.Y. 2020); *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 961 (N.D. Cal. 2019); *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1003–04 (N.D. Cal. 2018); *Montoya Echeverria v. Barr*, No. 20-CV-02917-JSC, 2020 WL 2759731, at *6 (N.D. Cal. May 27, 2020); *Rodriguez Diaz v. Barr*, No. 4:20-CV-01806-YGR, 2020 WL 1984301, at *5 (N.D. Cal. Apr. 27, 2020); *Birru v. Barr*, No. 20-CV-01285-LHK, 2020 WL 1905581, at *4 (N.D. Cal. Apr. 17, 2020*); Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at *7 (N.D. Cal. Dec. 24, 2018). at 257 (quoting *Zadvydas*, 533 U.S. at 690). Petitioner has a

"fundamental" interest in such a hearing, as "as "freedom from imprisonment is at the 'core of the liberty protected by the Due Process Clause.'" *Hernandez*, 872 F.3d at 993 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). This point is "beyond dispute." Id.; see also *Marin*, 909 F.3d at 256–57. Moreover, the irreparable injury Petitioner faces extends beyond a chance at physical liberty. There are several "irreparable harms imposed on anyone subject to immigration detention[.]" *Hernandez*, 872 F.3d at 995. These include "subpar medical and psychiatric care in ICE detention facilities," as well as the "collateral harms to children of detainees whose parents are detained." *Id.*

B. Agency Delay

Second, the BIA's delays in adjudicating bond appeals warrant excusing any exhaustion requirement. The court's ability to waive exhaustion based on delay is especially broad here given the interests at stake. As the Ninth Circuit has explained, Supreme Court precedent "permits a court under certain prescribed circumstances to excuse exhaustion where 'a claimant's interest in having a particular issue resolved promptly is so great that deference to the agency's judgment [of a lack of finality] is inappropriate.' " *Klein v. Sullivan*, 978 F.2d 520, 523 (9th Cir. 2002).

Moreover, the Supreme Court has explained that "[r]elief [when seeking review of detention] must be speedy if it is to be effective." *Stack v. Boyle*, 342 U.S. 1, 4 (1951).

Despite this fundamental interest and the Supreme Court's admonition that only speedy relief is meaningful, the BIA takes over half a year in most cases to adjudicate an appeal of a decision denying bond. Its own data demonstrates this fact.

Waiting several months, half a year, or even a year to review a custody determination is not reasonable; to the contrary, it exhibits significant disregard for the "fundamental" interests at stake. The Ninth Circuit has signaled that the protections afforded to criminal Respondents in pre-trial civil detention should apply in the civil immigration context. In *Gonzales v. U.S. Immigration & Customs Enforcement*, the Court of Appeals held that the Fourth Amendment "requires a prompt probable cause determination by a neutral and detached magistrate to justify continued detention" of a noncitizen facing removal. 975 F.3d at 798; see also id. at 823–26. Similar principles demonstrate why the BIA's review here is so patently unreasonable. The protections and quick review of detention orders afforded criminal Respondents are rooted in the Fifth Amendment's Due Process Clause, see *Salerno*, 481 U.S. at 746–47, and many of those principles unquestionably apply to noncitizens, see, e.g., *Zadvydas*, 533 U.S. at 690–91 (repeatedly citing *Salerno* and other Fifth Amendment civil detention caselaw). Thus, as with the rights at issue in *Gonzalez*, the rights of federal criminal Respondents facing pretrial civil detention demonstrate that the BIA's months- or even years-long review of a noncitizen's civil detention is an

"unreasonable . . . timeframe for administrative action." *McCarthy*, 503 U.S. at 147.

18. Finally, Petitioner notes that under either basis for waiving exhaustion, the history of appeals related to this issue supports him. Respondents have unclean hands and should not benefit from their failure to abide by appellate authority. This reality only further underscores the need for immediate relief and the propriety of waving any exhaustion requirement.

Respondents' continued detention of Petitioner is contrary to the law.

CLAIMS FOR RELIEF

COUNT ONE CONSTITUTIONAL CLAIM

19. Petitioner alleges and incorporates by reference paragraphs 1 through 18 above.

20. Petitioners' detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution. *Hope v. Warden York City Prison*, 972 F.3d 310, 323-25 (3d Cir. 2020) (seeking release due to unconstitutional conditions of confinement); *Yanes v. Martin*, 464 F. Supp. 3d 467, 468 n.1 (D.R.I. 2020); *Zepeda Rivas v. Jennings*, 465 F. Supp. 3d 1028, 1035-36 (N.D. Cal. 2020).

COUNT TWO STATUTORY CLAIM

21. Petitioner alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention violates the Immigration and Nationality Act,

8 USC §1226, and the U.S. Constitution.

COUNT THREE

23. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief: 1. Assume jurisdiction over this matter; 2. Issue an order directing Respondents to show cause why the writ should not be granted; 3. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1226, and the Immigration and Nationality Act; 4. Issue a writ of habeas corpus ordering Respondents to release Petitioner on parole under 8 USC §1226 (a)(2)(B) or, in the alternative, to provide him a bond hearing under 8 USC §1226 (a)(2)(A), enjoining Respondents from applying *Matter of Hurtado* or considering any criminal history that did not result in a criminal conviction or any misdemeanor convictions, where the burden is on the Respondents to show Petitioner is a flight risk or a danger to the community; 5. Award Petitioner reasonable costs and attorney's fees; and, 6. Grant any other relief which this Court deems just and proper.

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Respectfully submitted,

/s/ Jeremy Mondejar

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Attorney for Petitioner

VERIFICATION OF COUNSEL

I, Jeremy Mondejar, hereby certify that I am familiar with the case of the named petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

/s/ Jeremy Mondejar

Jeremy Mondejar