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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

RAFAEL JIMENEZ-AMADOR,

Plaintiff,

v.

Markwayne MULLIN, in his official capacity as Secretary of Homeland Security, Christopher J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center, Gregory J. ARCHAMBAULT, in his official capacity as San Diego Field Office Director, ICE Enforcement Removal Operations; Todd LYONS, in his official capacity as Acting Director of ICE; and Todd BLANCHE, Acting U.S. Attorney General; IMMIGRATION AND CUSTOMS ENFORCEMENT; DEPARTMENT OF HOMELAND SECURITY,

Respondents.

'26CV3931 TWR DEB

PETITION FOR WRIT OF HABEAS CORPUS

[redacted]

INTRODUCTION

1. Petitioner RAFAEL JIMENEZ-AMADOR ("Petitioner") is a 49-year-old Mexican national who last entered the United States on or about August 12, 2010. On or about June 19,

2026, Respondents detained him and processed him at the Otay Mesa Detention Center. Petitioner is the breadwinner in his family and resides in Chula Vista, California with his two USC children and wife, all of whom are US Citizens.

VENUE AND JURISDICTION

2. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

4. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

5. Venue is proper because Petitioner is detained at the Otay Mesa Detention Center, within the San Diego Division, and Respondent LaRose is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

PARTIES

6. Petitioner is a 49-year-old Mexican national who resides in Chula Vista, California. He is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

7. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention Center. Respondent La Rose is responsible for the operations of the Detention Center. Respondent La Rose is responsible for the operation of the detention center where Petitioner is detained. As such, Respondent LaRose has immediate physical custody of the Petitioner. He is being sued in his

official capacity.

8. Respondent Gregory J. Archambeault is the San Diego Field Office Director ("FOD") for ICE Enforcement and Removal Operations. Respondent Archambeault is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent Archambeault is being sued in his official capacity.

9. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of Petitioner and is being sued in his official capacity.

10. Respondent Markwayne Mullin is the secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400

(1963) (emphasis added) (overruled on other grounds).

EXHAUSTION OF REMEDIES

13. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

14. Additionally, further agency steps will be futile as evidenced by the Petitioner's continued policy to promptly deny bond solely under *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025). In its decision, the BIA adopts DHS' reading of 8 U.S.C. § 1225(b)(2), finding individuals similarly situated to the Petitioner ineligible for release on bond.

15. In Petitioner's case, any request for custody redetermination is expected to be dismissed by the Immigration Court for lack of jurisdiction and any appeal to the BIA will also be dismissed under the same basis. While recently, the Central District Court of California has issued a decision vacating *Matter of Yajure Hurtado,* DHS continues to detain individuals like Petitioner under the same basis and contrary to law. *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al.,* No. 5:25-cv-01873-SSS-BFM, Document 116 (C.D. Cal. 2026).

16. As a result, Petitioner cannot obtain a bond hearing in Immigration Court as a matter of law, rendering administrative remedies unavailable and inadequate.

17. Where no administrative forum exists to review the legality of detention, habeas corpus relief is the exclusive mechanism for constitutional review. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001).

18. Accordingly, this Court has both jurisdiction and responsibility to remedy Petitioner's unlawful detention either by ordering immediate release, or in the alternative, by requiring a constitutionally adequate custody hearing before a neutral decisionmaker.

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STATEMENT OF FACTS

19. Petitioner is a 49-year-old citizen of Mexico who last entered the United States on or about August 12, 2010. On or about June 19, 2026, he was detained by Respondents at the Otay Mesa Detention Center. Petitioner has remained in Respondent's custody since that time. Petitioner has been scheduled for a Master Calendar hearing on July 29, 2026 at 1:00 P.M. at 7488 Calzada de la Fuente, San Diego, California. Petitioner now seeks habeas relief because continuing his detention exceeds statutory authority and violates the Fifth Amendment.

LEGAL FRAMEWORK

20. Habeas corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under 28 U.S.C. section 2241 if they concern the continuation of execution of confinement).

21. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall . . . dispose of [] as law and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive in cases of pretrial and noncriminal detention." *Boumedine v. Bush*, 553 U.S. 723, 779–80 (2008). "[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner's release." *Id.* at 787.

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CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

22. Petitioner incorporates paragraphs 1 through 21 as if fully set out herein.

23. The Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).

24. Petitioner has now been subjected to prolonged civil detention without any custody hearing, written custody determination, or opportunity to contest the factual basis for his confinement. Respondents have not alleged—let alone established—that Petitioner poses a danger to the community or a flight risk. Detention based solely on executive discretion, without procedural safeguards, creates an unacceptably high risk of erroneous deprivation of liberty.

25. Applying the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner's liberty interest is profound; the risk of erroneous deprivation is substantial given the absence of a neutral adjudicator; and the government's interest in continued detention is minimal where Petitioner has no criminal history, he has ample community ties including a USC wife and two USC children, one child of which has level two (2) autism and another currently attending university. Petitioner and his spouse are homeowners and business owners. Petitioner is prima facie eligible for relief under 8 USC 1229b, cancellation of removal for certain nonpermanent residents. Due process therefore requires either Petitioner's immediate release or, at minimum, a prompt custody hearing at which the government bears the burden of justifying continued detention by clear and convincing evidence.

COUNT TWO

8 U.S.C. § 1226(a), NOT 8 U.S.C. § 1225(b), APPLIES TO PETITIONER

26. The allegations in the above paragraphs are re-alleged and incorporated herein.

27. Respondents have continued to argue that those in a situation similar to Petitioner are detained pursuant to 8 U.S.C. § 1225(b), which mandates the detention of an "applicant for admission" throughout the entirety of removal proceedings.

28. The term "seeking admission, however, "is not defined under § 1225. As many cases in this District and this Circuit have found, "seeking admission" is best understood to require "an affirmative act such as entering the United States or applying for status." *See Mosqueda v. Noem*, No. 25-CV-2304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025); *see also Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361, at *5 (S.D. Cal. Oct. 24, 2025); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) ("Every district court to address this question has concluded that the government's position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice."). Here, Petitioner was not "seeking admission" within this interpretation. He was arrested in the interior of the United States.

29. As the Ninth Circuit explained in interpreting the phrase "applicant for admission" under § 1225(b)(1), "an immigrant submits an 'application for admission' at a distinct point in time," and stretching that phrase to apply "potentially for years or decades . . . would push the statutory text beyond its breaking point." *United States v. Gambino-Ruiz*, 91 F.4th 981, 988-89 (9th Cir. 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922-26 (9th Cir. 2020) (en banc)).

30. In addition, § 1226 already provides an exception to its rule that the Attorney General may set bond or release an alien on conditional parole, specifically under subsection (c).

Enacted by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), § 1226(c)(1)(E) requires mandatory detention for people who are inadmissible under §§ 1182(a)(6)(A), (6)(C), or (7) *and* charged with certain crimes. 8 U.S.C. § 1226(c)(1)(E). Beyond the fact that Petitioner doesn't satisfy these requirements, a new "interpretation of Section 1225(b)(2)(A) would seemingly render the foregoing language from Section 1226(c) a nullity." *Lopez*, 2025 WL 3005346, at *4 (citations omitted). Specifically, "if § 1225(b)(2) already encompassed all inadmissible noncitizens, there would be no need to pass an amendment that required detention for those who are inadmissible under the same statutes and are being charged with specific crimes." *Medina-Ortiz v. Noem*, No. 25-cv-02819- DMS-MMP, at *5 (S.D. Cal Oct. 30, 2025). Such an "interpretation would render the Laken Riley Act, 'superfluous'" and, therefore, should not be accepted. *Id.*

31. Respondents' formulated definition of "applicant for admission," which would include any noncitizen who has not been formally admitted regardless of years of residence in the United States, directly contradicts both the plain text of the statute and controlling Ninth Circuit precedent and of numerous courts across the United States who have considered this issue.

32. Because the Petitioner has resided continuously in the United States since 2010, his period as an "applicant for admission" has long since closed. He is further characterized in his charging document as a noncitizen "already in the country" rather than one "seeking admission."

33. Petitioner's detention constitutes arbitrary and indefinite confinement in violation of the Constitution and international human rights norms.

34. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976) test, Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme when considering Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c) and based of his lack of criminal history and community ties, he does not pose a danger to the community or a substantial flight

risk. Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 39 U.S. 302, 305-06 (1995). ICE here is acting both as the prosecutor and the adjudicator.

35. While the government has discretion to detain individuals under 8 U.S.C. § 1126(b), this discretion is not "unlimited" and must comport with constitutional due process. See Zadvydas, 533 U.S. at 698.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

(3) Declare that RAFAEL JIMENEZ-AMADOR's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231(a), and 8 C.F.R. §1231(a)(6);

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, under reasonable conditions of supervision;

(5) In the alternative, issue a prompt custody hearing at which the government bears the burden of justifying continued detention;

(6) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondent's custody;

(7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(8) Grant any further relief this Court deems just and proper.

Respectfully submitted this 7th day of July, 2026.

/s/: Elizabeth F. Rodriguez

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, RAFAEL JIMENEZ-AMADOR, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 7th day of July, 2026.

/s/: Elizabeth F. Rodriguez

Elizabeth F. Rodriguez, Esq.