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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
EL CENTRO DIVISION

Mateo Vargas Ros

Petitioner,

v.

Markwayne Mullins, in his official capacity as Secretary of Homeland Security, Jeremy Casey , in his official capacity as Warden of Imperial Regional Detention Center, Patrick Divver, in his official capacity as Imperial 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.

Case No. '26CV3941 LL GC
Agency Number [redacted]

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Mateo Vargas Ros petitions this Court for a writ of habeas corpus under 28 U.S.C. section 2241 to remedy Respondents' detaining him unlawfully and states as follows:

2. Petitioner Mateo Vargas Ros is an Guatemalan asylum seeker detained at Imperial Regional Detention Center in Calexico, California. He was persecuted in Guatemala and properly a fear of return in 2024 when he was first apprehended by Immigration and Customs Enforcement.

3. Petitioner was last and arbitrarily detained in or around June 27 2026 in Florida. He entered without inspection in or around 2024. He was apprehended upon entry and his removal case remains pending with no hearing pending with the Miami, FL immigration court. He was detained with other co workers driving to a worksite while in active removal proceedings

4. Respondents cannot evade due process requirements so easily. The U.S. Constitution requires the Respondents provide at least the rights available to him when he first was encountered by immigration enforcement and placed in removal proceedings in 2024.

5. The Constitution protects Mr. Vargas Ros.—and every other person present in this country—from arbitrary deprivations of his liberty, and guarantees due process of law. The government's power over immigration is broad, but as the Supreme Court has declared, it "is subject to important constitutional limitations." Zadvydas v. Davis, 533 U.S. 678, 695 (2001). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." Foucha v. Louisiana, 504 U.S. 71, 80 (1992).

6. Mr. Vargas Ros seeks declaratory and injunctive relief to compel his immediate release from the immigration jail where he has been held by DHS since being unlawfully

detained on late June 2026, without first being provided a due process hearing to determine whether incarceration is justified.

7. Absent review in this Court, no other neutral adjudicator will examine Mr. Vargas Ros' plight: Respondents will continue—unchecked—to detain him unlawfully under 8 U.S.C. § 1225(b)(1), INA § 235(b)(1), without due process.

8. For the reasons outlined below, Mr. Vargas Ros arrest and inability to contest his arbitrary detention violate his statutory and constitutional rights, including Due Process protections under the U.S. Constitution. Mr. Vargas Ros respectfully requests that this Court should grant the instant petition for a writ of habeas corpus, without any bond requirement, and for declaratory and injunctive relief, to prevent such harms from recurring.

9. Mr. Vargas Ros also asks this Court to find that Respondents' attempts to detain, transfer, and deport her are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing his transfer out of this district.

JURISDICTION

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

11. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs Act).

12. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. See Demore v. Kim, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges);

Zadvydas v. Davis, 533 U.S. 678, 787 (2001) (same); Y-Z-LH v. Bostock, No. 3:25-CV-965-SI, 2025 WL 1898025, at *3 (D. Or. July 9, 2025) (same); Garcia v. Andrews, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (same).

13. 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., the All Writs Act, 28 U.S.C. § 1651, and the Court's inherent equitable powers.

VENUE

14. Venue is proper because Petitioner is in Respondents' legal and physical custody at Imperial Regional Detention Center in Calexico, California. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' legal and physical custody, including his current and ongoing detention under the legal and physical custody of Respondent Casey, warden of Imperial Regional Detention Center. 28 U.S.C. § 1391(e); Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004) (habeas petition must be addressed to the federal district court of confinement); Wairimu v. Dir., Dep't of Homeland Sec., No. 19-CV-174-BTMMDD, 2019 WL 460561, at *2 (S.D. Cal. Feb. 5, 2019) (district of confinement is the preferable forum even if the Court otherwise has personal jurisdiction). For these same reasons, venue should be found proper under Local Civil Rule HC.1. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Southern District of California, the judicial district in which Petitioner currently is detained.

15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part

of the events or omissions giving rise to the claims occurred in the Southern District of California.

REQUIREMENTS OF 28 U.S.C. § 2241, 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.

17. 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).

18. Mr. Vargas Ros is "in custody" for purpose of 28 U.S.C. section 2241 because he was arrested by Respondents and remains in their legal and physical custody at Otay Mesa Detention Center in San Diego, California. He is under Respondents' and their agents' direct control

PARTIES

19. Mr. Vargas Ros . ("Petitioner") is a citizen of Guatemala. He arrived in the U.S. on or about November 2024 without inspection. He was detained in the interior of the United States and indicated a fear of return to Guatemala. He was released on his own recognizance and placed into removal proceedings which remain pending. In late June

2026 Petitioner was with other coworkers driving to work and were detained. He has remained in Respondent's custody since then

20. Mr. Vargas Ros is currently residing in Respondents' custody at Imperial Regional Detention Center in Calexico, California, as of the time of the filing of this petition.

21. Respondent Jeremy Casey ("Casey") is the Senior Warden at Imperial Regional Detention Center, California, where Mr. Vargas is detained. Casey e is responsible for the day-to-day operations and confinement of noncitizens detained at that facility. He acts at the direction of Respondents Divver, Lyons, and Blanche. Casey is a custodian of Mr. Vargas. and is named in his official capacity.

22. Respondent Gregory Archambault is the Director of the San Diego Field Office of ICE's Enforcement and Removal Operations division. As such, Gregory Archambault is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

23. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

24. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

25. Respondent Todd Blanche is the acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration

Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

26. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

27. Petitioner has no administrative remedies to exhaust.

28. Therefore, a writ of habeas corpus is the sole avenue to vindicate Mr. Vargas' constitutional, statutory, and regulatory rights and restore her liberty.

LEGAL FRAMEWORK

29. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the "historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands." Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

30. The "motivation for the enactment of the Refugee Act" was the United Nations Protocol Relating to the Status of Refugees, "to which the United States had been bound since 1968." INS v. Cardoza-Fonseca, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose "to give 'statutory meaning to our national commitment to human rights and humanitarian concerns.'" Duran v. INS, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

31. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

32. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinions and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

33. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1).

34. Because of the life-or-death stakes, the statutory right to apply for asylum is robust. The right necessarily includes the right to counsel, at no expense to the government, see 8 U.S.C. §§ 1229a(b)(4)(A), 1362, the right to notice of the right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant to present evidence to establish eligibility.).

35. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. Reno v. Flores, 507 U.S. 292, 306 (1993).

36. Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative appellate review before the Board

of Immigration Appeals of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) et seq.

37. Asylum is not an admission to the United States and an applicant for asylum, while they must be physically present in the United States to apply, need not apply for or seek admission to the United States. Matter of V-X-, 26 I&N Dec. 147 (BIA 2013).

38. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

39. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

40. On January 21, 2025, Acting Deputy Secretary of DHS Benjamin Huffman issued for public inspection and effective immediately a designation expanding the scope of expedited removal to apply nationwide and to certain noncitizens who are unable to prove they have been in the country continuously for two years. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of

the Secretary, Dep't of Homeland Security, Designating Aliens for Expedited Removal, 15 Fed. Reg. 8139 ("January 2025.

41. The January 2025 Designation expands the pool of noncitizens who can be subjected to the summary removal process substantially to include noncitizens who are apprehended anywhere in the United States and who have not been in the United States continuously for more than two years. Id. at 8140. Designation"). The designation was "effective on" January 21, 2025.

42. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

43. On information and belief, Respondents are using the immigration detention system, including extra-territorial transfer and detention as a means to punish individuals for asserting rights under the Refugee Act.

CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process – Substantive and Procedural Due Process, U.S. Const. Amend. V.

44. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

45. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." Zadvydas, 533 U.S. at 693.

46. Due process requires that government action be rational and nonarbitrary. See U.S. v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007)

47. While asylum is a discretionary benefit, the right to apply is not. 8 U.S.C. § 1158(a)(1). Any noncitizen who is "physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival . . .), irrespective of such [noncitizen's] status, may apply for asylum." Id.

48. Because the denial of the right to apply for asylum can result in serious harm or death, the statutory right to apply is robust and meaningful. It includes the right to legal representation, and notice of that right, see id. §§ 1229a(b)(4)(A), 1362, 1158(d)(4); the right to present evidence in support of asylum eligibility, see id. § 1158(b)(1)(B); the right to appeal an adverse decision to the Board of Immigration Appeals and to the federal circuit courts, see id. §§ 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a decision determining removability, see id. § 1229a(c)(6)-(7).

49. Mr. Vargas Ros has a vital liberty interest in remaining free from DHS custody. See Pinchi v. Noem, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July 24, 2025) (citing Diaz v. Kaiser, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen that ICE released from custody after initial apprehension "has a substantial private interest in remaining out of custody" which includes an interest in "…obtaining necessary medical care, [and] maintaining her relationships in the community…").

50. Even if the initial decision to release a non-citizen on from DHS custody is discretionary, "…after that individual is released from custody she has a protected liberty interest in remaining out of custody." Garcia v. Andrews, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (quoting Pinchi v. Noem, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025)).

51. Here, Mr. Vargas Roswas not advised by DHS that they sought to take him into custody, depriving him of his liberty interest and the bundle of rights associated with his original pending asylum application in violation of due process. See generally Mathews v.

Eldridge, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest). Nor has the government identified any materially changed circumstances that would warrant detaining Mr. Vargas Ros after was placed in removal proceedings.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority, Unlawful Detention

52. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

53. Under the APA, a court shall "hold unlawful and set aside agency action…" that is "…(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity…" 5 U.S.C. § 706(2)(A)-(B).

54. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551 U.S. 644, 658 (2007) (quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)).

55. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." Dep't of Com. v. New York, 588 U.S. 752, 773 (2019) (citation omitted)

56. The INA provides that Respondents may, as they did in 2024 in Petitioner's case, release an individual from apprehension or custody based on an individualized determination of their danger and flight risk. See 8 U.S.C. § 1226(a); Zadvydas, 533 U.S. at 690; Matter of Guerra, 24 I&N Dec. 37 (BIA 2006). After such a release decision is made, a revocation

of the custody determination may be made only when warranted by an individual's specific facts and circumstances. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9).

57. In Y-Z-H-L v Bostock, 2025 WL 1898025, at *10-12 (D. Or. July 9, 2025) the Court explained the process of discretionary release from custody in immigration cases and noted that before revoking the release, the non-citizen must be given written notice of the impending revocation, which must include a cogent description of the reasons. Under the APA, non-citizens are entitled to determinations related to their release revocations that are not arbitrary, capricious or an abuse of discretion. See id. at *10.

58. By categorically revoking Mr. Vargas Ros' release from DHS custody, and detaining him without notice or consideration of his individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

59. Respondents have made no finding that Petitioner is a danger to the community.

60. Respondents have made no finding that Petitioner is a flight risk because, in fact, he was arrested while his removal proceedings were pending.

61. On information and belief, by detaining Mr. Vargas Ros categorically and without notice, Respondents have further abused their discretion because, since the agency made its initial custody determination, on information and belief, there have been no changes to Mr. Vargas Ros' specific facts or circumstances that support the revocation of his release from custody on his own recognizance.

62. Respondents have already considered Mr. Vargas Ros's facts and circumstances and determined that he was not a flight risk or danger to the community. On information and belief, there have been no changes to the facts of Mr. Vargas Ros' proceedings that justify this revocation of his release from DHS custody. The fact that Mr. Vargas Roshas previously been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider Mr. Vargas Ros, on an individualized basis, to be a danger to the community or a flight risk.

COUNT THREE

Violation of the Fourth Amendment of the Constitution

63. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

64. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. The Supreme Court has recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. INS v. Lopez-Mendoza, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

65. The Fourth Amendment requires that arrests entail a neutral, judicial determination of probable cause. See Gerstein v. Pugh, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. See id. Arrest and detention of a person, including of a noncitizen, absent a neutral judicial determination of probable cause violates the Fourth Amendment of the Constitution. Id.; see also Cnty. of Riverside v. McLaughlin, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. See Cnty. of Riverside v. McLaughlin, 500 U.S. 44, 57 (1991).

66. Congress enacted a strong preference that immigration arrests be based on warrants. See Arizona v. United States, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus provides immigration officers with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Federal regulations track the strict limitations on warrantless arrests. See 8 C.F.R. § 287.8(c)(2)(ii).

67. Mr. Vargas Ros at the moment of the arrest by Respondents, was lawfully present based on Respondents' prior grant of release from DHS custody. He did not receive any judicial determination of probable cause for his arrest or continued detention by Respondents.

68. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment's reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. See United States v. Brignoni-Ponce, 422 U.S. 873, 882–84 (1975); Gerstein, 420 U.S. at 114. Mr. Vargas Ros was granted release from DHS custody in 2024 and did not pose any danger to any person in the community at large.

69. Respondents' warrantless arrest of Mr. Vargas Ros constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment

COUNT FOUR

VIOLATIONS OF THE FOURTH AMENDMENT OF THE CONSTITUTUION

70. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

71. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. The Supreme Court has recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. INS v. Lopez-Mendoza, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

72. The Fourth Amendment requires that arrests entail a neutral, judicial determination of probable cause. See Gerstein v. Pugh, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. See id. Arrest and detention of a person, including of a noncitizen, absent a neutral judicial

determination of probable cause violates the Fourth Amendment of the Constitution. Id.; see also Cnty. of Riverside v. McLaughlin, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. See Cnty. of Riverside v. McLaughlin, 500 U.S. 44, 57 (1991).

73. Congress enacted a strong preference that immigration arrests be based on warrants. See Arizona v. United States, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus provides immigration officers with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Federal regulations track the strict limitations on warrantless arrests. See 8 C.F.R. § 287.8(c)(2)(ii).

74. MR. Vargas Ros at the moment of the arrest by Respondents, was lawfully present based on Respondents' prior grant of release from DHS custody. He did not receive any judicial determination of probably cause for his arrest or continued detention by Respondents.

75. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment's reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. See United States v. Brignoni-Ponce, 422 U.S. 873, 882–84 (1975); Gerstein, 420 U.S. at 114. Mr. Vargas Ros was granted release from DHS custody in 2024 and did not pose any danger to any person in the community at large.

76. Respondents' warrantless arrest of Mr. Vargas Ros constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment.

COUNT FIVE

Violation of Fifth Amendment Right to Due Process – Procedural Due Process, U.S. Const. Amend. V

77. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

78. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

79. Mr. Diaz has a fundamental interest in liberty and being free from official restraint.

80. The government's detention of Petitioner without a notice or an opportunity to be heard before detention violates her right to due process.

81. The government's detention of Petitioner without a meaningful bond and custody redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process

PRAYER FOR RELIEF

82. WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

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

c. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

d. Declare that refusal to allow Petitioner a meaningful bond and custody redetermination hearing violates the INA, APA, and Due Process;

83. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

a. Issue an Order prohibiting the Respondents from transferring Petitioner from this district without the Court's approval;

b. Issue an Order requiring Respondents to provide a bond and custody redetermination hearing within 7 days to meaningfully consider his eligibility for release from DHS custody;

c. 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

d. Grant any other and further relief that this Court deems just and proper.

DATED this 9 of July, 2026.

/s/ Stephanie M Alcala

Attorney for Petitioner