Alejandro Monsalve
CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave., Suite 9
Chula Vista, CA 91910
(619) 777-6796
Counsel for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BYRON MIGUEL MENDEZ TZOC,

Petitioner,

v.

Christopher LaROSE, Warden, Otay Mesa Detention Center;

Markwayne MULLIN, Secretary, U.S. Department of Homeland Security;

David J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement;

Todd BLANCHE, Acting Attorney General of the United States, U.S. Department of Justice.

Respondents

Case No.: '26CV3965 GPC VET

[redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Petitioner, Byron Miguel Mendez Tzoc, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued immigration detention and alleges as follows:

INTRODUCTION

2. Petitioner Byron Miguel Mendez Tzoc is a native and citizen of Guatemala currently detained at the Otay Mesa Detention Center in San Diego, California.

3. Petitioner brings this action under 28 U.S.C. § 2241 to challenge the legality of his detention by the Department of Homeland Security following his prolonged residence at liberty in the United States, his affirmative participation in the asylum process administered by federal immigration authorities—including government-directed biometrics, security vetting, and ongoing immigration proceedings—and his subsequent arrest and detention in the interior of the country after years of cooperation with those authorities.

4. Petitioner affirmatively sought protection under the immigration laws by filing Form I-589, Application for Asylum and for Withholding of Removal. In connection with that application, USCIS required Petitioner to submit biometrics and fingerprints, conducted security vetting, and thereafter issued him an Employment Authorization Document while permitting him to remain at liberty in the community.

5. As part of that process, USCIS required Petitioner to appear for biometrics, fingerprinting, and security vetting. USCIS subsequently approved Petitioner's application for employment authorization and issued him an Employment Authorization Document valid through December 12, 2029.

6. Throughout this process, Petitioner openly disclosed his identity, residence, fingerprints, and continued presence in the United States to federal immigration authorities. Petitioner complied with every governmental requirement imposed upon him, was authorized to work pursuant to a DHS-issued Employment Authorization Document, and openly resided in the community for years without any allegation that he posed a danger to the community or a risk of flight.

7. On or about June 27, 2026, while traveling with his family to a private off-road recreational property in Stuart, Florida, Petitioner was stopped after a park ranger observed a broken trailer license plate. During that encounter, Petitioner was arrested and subsequently taken into immigration custody. Respondents provided no prior notice, no individualized explanation, and identified no changed circumstances justifying Petitioner's sudden detention after years of openly residing in the community while complying with federal immigration requirements.

8. Petitioner was initially detained at the Krome Processing Center in Florida before being transferred to the Otay Mesa Detention Center in San Diego, California, where he remains detained.

9. Respondents' continued detention of Petitioner is unlawful. Having required Petitioner to identify himself, submit biometrics, undergo security vetting, and thereafter issued him an Employment Authorization Document while knowingly permitting him to reside openly in the United States for years, Respondents may not abruptly invoke inspection-stage detention authority under INA § 235(b) without constitutionally adequate process and without any individualized determination justifying detention.

10. Instead, Respondents have detained Petitioner without providing any individualized custody determination, without identifying any changed circumstances, and without affording him any meaningful opportunity for a custody determination before a neutral decisionmaker.

11. The government's actions therefore violate the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment.

12. Absent intervention by this Court, no neutral adjudicator will review the legality of Petitioner's detention. Petitioner therefore respectfully requests that this Court declare his detention unlawful and order his immediate release or, in the alternative, require Respondents to provide a constitutionally adequate custody hearing.

CUSTODY

13. Petitioner is currently in the legal and physical custody of Respondents and is detained at the Otay Mesa Detention Center in San Diego, California, within the jurisdiction of this Court.

JURISDICTION AND VENUE

14. This action arises under the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Petitioner's detention under the INA and any inherent or plenary powers the government may claim to continue holding him.

15. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in Respondents' custody under the United States' color of authority, and such custody violates the Constitution, laws, or treaties of the United States. This Court's jurisdiction is not limited by a petitioner's nationality, status as an immigrant, or any other classification. See *Boumediene v. Bush*, 553 U.S. 723, 747 (2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl. 2; U.S. CONST. amends. V and VIII; 28 U.S.C. §§ 1361 (mandamus), 1651 (All Writs Act), and 2241 (habeas corpus).

16. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner's detention. Federal district courts possess broad authority to issue writs of habeas corpus when a person is held "in custody in violation of the Constitution or laws or treaties of the United States" (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that survived the REAL ID Act's jurisdictional restrictions.

17. Because Petitioner seeks the traditional habeas remedy of release from allegedly unlawful detention rather than additional administrative review of his underlying claims, his petition presents precisely the type of threshold legality-of-detention question that § 2241 was designed to address. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); see also *Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh*, 638 F.3d at 1211–12).

18. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a substantial part of the events or omissions giving rise to this claim have occurred here, Petitioner

is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243 because Petitioner's immediate custodian resides in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451–52 (2004) (Kennedy, J., concurring).

19. Sections 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not bar this Court's jurisdiction because Petitioner challenges only the legality of his detention, not the validity of removal proceedings or any removal order. Federal courts have consistently recognized that habeas corpus remains available to review the statutory and constitutional basis of immigration detention. Petitioner's claims therefore fall squarely within this Court's habeas jurisdiction under 28 U.S.C. § 2241.

PARTIES

20. Petitioner, Byron Miguel Mendez Tzoc, is a native and citizen of Guatemala currently detained at the Otay Mesa Detention Center in San Diego, California.

21. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Center in San Diego, California, Petitioner's immediate custodian, and is responsible for Petitioner's confinement. Respondent LaRose is sued in his official capacity.

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

23. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement (ICE).

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

25. All Respondents are named in their official capacities.

STATEMENT OF FACTS

26. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego, California. Petitioner is a native and citizen of Guatemala who entered the United States without inspection in approximately 2010 and has resided continuously in the United States for approximately sixteen years.

27. Petitioner has a pending Form I-589, Application for Asylum and for Withholding of Removal. His wife also has a pending Form I-589. Petitioner and his wife have three children, including two United States citizen children, ages three and seven, and a fifteen-year-old child who is not a United States citizen. Their seven-year-old child receives speech therapy twice each week.

28. In connection with Petitioner's pending immigration application, USCIS required Petitioner to appear for biometrics and fingerprinting. USCIS issued Petitioner an appointment notice directing him to appear at the USCIS Application Support Center in West Palm Beach, Florida, on May 29, 2024. Petitioner complied with that requirement, thereby providing federal immigration authorities with his identity, address, fingerprints, and continued presence in the United States. (*Ex.* 1.)

29. USCIS thereafter approved Petitioner's application for employment authorization under category C08 and issued him an Employment Authorization Document valid from December 13, 2024 through December 12, 2029. Through that affirmative governmental action, DHS authorized Petitioner to work in the United States while his immigration application remained pending. (*Exs.* 2–3.)

30. Throughout this process, Petitioner openly disclosed his identity, residence, fingerprints, and continued presence in the United States to federal immigration authorities. Petitioner complied with all governmental requirements imposed upon him, openly resided in the community, worked pursuant to DHS-issued employment authorization, and had no criminal record.

31. On or about June 27, 2026, Petitioner was traveling with his family to a private property in Stuart, Florida, designated for off-road recreational activities. As the family approached the parking area, a park ranger stopped them because of a broken trailer license plate. During that encounter, Petitioner was arrested and subsequently taken into immigration custody.

32. Petitioner was initially detained at the Krome Processing Center in Florida. Counsel filed a motion requesting a custody determination on July 2, 2026, while Petitioner remained detained at Krome. Before that request was adjudicated, Respondents transferred Petitioner across the country to the Otay Mesa Detention Center in San Diego, California, where he remains detained.

33. At no point before Petitioner's arrest did DHS provide notice that his longstanding liberty would be revoked or provide any opportunity to challenge that decision before a neutral decisionmaker. Nor did Respondents provide Petitioner with an individualized custody determination before arresting and detaining him. Upon information and belief, Respondents contend that Petitioner is subject to mandatory detention under INA § 235(b), thereby depriving the Immigration Court of jurisdiction to conduct an individualized custody determination on the merits.

34. Respondents have identified no changed circumstances or individualized basis justifying Petitioner's sudden detention after approximately sixteen years of residence in the United States and after DHS required him to submit biometrics, conducted security vetting, issued him an Employment Authorization Document, and authorized him to work through December 12, 2029. Petitioner has no criminal record, and Respondents have identified no facts demonstrating that he poses a danger to the community or a risk of flight.

REQUIREMENTS OF 28 U.S.C. § 2243

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

36. Federal courts have long emphasized the importance of habeas corpus as a protection against unlawful restraint. The Supreme Court has described the Great Writ 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).

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

EXHAUSTION OF ADMINISTRATIVE REMEDIES

38. In habeas corpus proceedings, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive prudential exhaustion where "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." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Here, exhaustion should be excused because administrative remedies are (1) futile and (2) Petitioner's continued detention results in irreparable harm.

39. Exhaustion would be futile because, to the extent DHS treats Petitioner as subject to detention under 8 U.S.C. § 1225(b), Immigration Judges lack jurisdiction to conduct custody redetermination hearings for individuals DHS classifies as subject to § 235(b). See 8 C.F.R. § 1003.19(h)(2)(i)(B). Because DHS asserts that Petitioner is subject to mandatory detention under INA § 235(b), no administrative mechanism exists through which Petitioner may obtain an individualized custody determination before an Immigration Judge. Any attempt to exhaust administrative remedies would therefore be futile.

40. Moreover, no statutory exhaustion requirement applies to Petitioner's claim that his detention violates the Constitution and the INA. Constitutional claims and pure questions of law —such as whether DHS has statutory authority to detain Petitioner and whether detention under

§ 1225(b) is lawful in these circumstances—fall outside the agency's adjudicatory competence. See *Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (exhaustion excused where the agency "does not have jurisdiction to review" constitutional claims); In re Indefinite Detention Cases, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same). There is no administrative forum that can determine whether DHS may lawfully invoke § 1225(b)(2) to detain Petitioner under these circumstances.

41. Petitioner suffers irreparable harm for each additional day he remains unlawfully detained. The loss of physical liberty constitutes an immediate and ongoing injury that cannot be fully remedied after the fact. Continued incarceration following years of openly residing in the community further magnifies that harm. Courts routinely excuse exhaustion where unlawful detention inflicts irreparable injury. Petitioner's ongoing loss of liberty therefore warrants waiver of prudential exhaustion.

LEGAL FRAMEWORK

42. The Immigration and Nationality Act distinguishes between detention at the time of entry and detention following arrest within the interior of the United States. See 8 U.S.C. §§ 1225, 1226.

43. Section 235 governs inspection-stage detention of individuals encountered at or near the time of entry while their admissibility is being determined. By contrast, Section 236(a) governs the arrest and detention of noncitizens who have already entered the United States and are later taken into custody pending removal proceedings.

44. Where the government has knowingly permitted a noncitizen to reside openly within the United States after requiring him to submit biometrics and fingerprinting, undergo security vetting, and obtain government-issued employment authorization, the inspection-stage detention framework no longer governs a subsequent arrest in the interior of the United States. Any such detention must proceed, if at all, under 8 U.S.C. § 1226(a).

45. Consistent with the distinction between inspection-stage detention and later arrest in the interior, noncitizens who have long resided in the United States and are subsequently

detained after years of liberty and governmental acquiescence are properly detained, if at all, under § 1226(a), rather than § 1225(b).

46. The Due Process Clause protects all persons within the United States from arbitrary detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Freedom from physical restraint lies at the core of the liberty protected by the Constitution.

47. Immigration detention is civil in nature and is permissible only when justified by legitimate governmental interests, such as ensuring appearance at proceedings or protecting the community. *Id.* at 690–91.

48. Where the government has knowingly permitted a noncitizen to reside openly at liberty in the community for years after requiring him to disclose his identity and residence, submit biometrics and fingerprints, undergo security vetting, and obtain government-issued employment authorization, that prolonged liberty and the government's affirmative conduct create a substantial liberty interest protected by the Due Process Clause. That liberty cannot be revoked without constitutionally adequate process. Detention without prior notice, an individualized determination, or any identified change in circumstances therefore raises serious due process concerns.

49. The Administrative Procedure Act prohibits agency action that is arbitrary, capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency must provide a reasoned explanation for its actions based on the relevant facts and circumstances.

50. Detaining a noncitizen after a prolonged period of liberty—during which the government required biometrics, completed security vetting, issued employment authorization, and knowingly permitted him to remain in the community—without identifying any changed circumstances, without providing an individualized justification, and without applying the proper statutory framework constitutes arbitrary and unlawful agency action.

CLAIM FOR RELIEF

COUNT 1

Violation of Due Process U.S. Constitution Amendment V

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

52. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. CONST. amend. V. This protection applies to all persons within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

53. For years, Petitioner openly resided in the United States while affirmatively participating in the federal immigration system. During that period, Petitioner filed an Application for Asylum and for Withholding of Removal, USCIS required him to appear for biometrics and fingerprinting, conducted security vetting, and issued him an Employment Authorization Document authorizing him to work while his immigration proceedings remained pending. Despite Petitioner's extensive cooperation with federal immigration authorities, his disclosure of his identity, residence, and fingerprints, and the absence of any allegation that he posed a danger to the community or a risk of flight, Respondents abruptly detained Petitioner on or about June 27, 2026, following a traffic stop in Stuart, Florida, without prior notice, without any individualized explanation, and without any identified change in circumstances.

54. By requiring Petitioner to disclose his identity and residence, submit biometrics and fingerprints, undergo security vetting, and by issuing Petitioner an Employment Authorization Document, the government knowingly permitted Petitioner to openly reside and work in the United States for years. Through those affirmative governmental actions, Respondents created a substantial liberty interest in Petitioner's continued freedom from detention. Abrupt detention without notice, without an individualized determination, and without a meaningful opportunity to be heard before a neutral decisionmaker constitutes an arbitrary deprivation of that liberty in violation of the Due Process Clause. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

COUNT 2

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

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

56. Under the Administrative Procedure Act, a court shall "hold unlawful and set aside agency action" that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

57. Agency action is arbitrary and capricious where the agency fails to consider relevant factors, offers an explanation that runs counter to the evidence, or fails to articulate a rational connection between the facts found and the decision made. *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983).

58. An agency must provide a reasoned explanation for its actions based on the facts and circumstances of the individual case. *Dep't of Com. v. New York,* 139 S. Ct. 2551, 2569 (2019).

59. Here, Respondents abruptly detained Petitioner after years of knowingly permitting him to reside and work openly in the United States following government-directed biometrics, fingerprinting, security vetting, and the issuance of an Employment Authorization Document. Respondents have provided no reasoned explanation for this detention and have identified no changed circumstances that would justify revoking Petitioner's liberty.

60. Respondents have further failed to provide any individualized assessment justifying Petitioner's detention. They have not identified any facts indicating that Petitioner poses a danger to the community or a risk of flight.

61. By detaining Petitioner without explanation, without identifying any changed circumstances, without providing any individualized justification, and by applying an improper statutory detention framework inconsistent with Petitioner's prolonged liberty and the government's affirmative acts of requiring biometrics, conducting security vetting, and issuing

Petitioner an Employment Authorization Document, Respondents have acted arbitrarily and capriciously and in excess of their statutory authority.

62. Accordingly, Respondents' decision to detain Petitioner must be set aside under 5 U.S.C. § 706(2)(A).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A) Assume jurisdiction over this matter;

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

C) Declare that Petitioner's continued detention without prior notice, without an individualized determination, and without any identified change in circumstances violates the Due Process Clause of the Fifth Amendment;

D) Declare that Respondents lack lawful authority to detain Petitioner without constitutionally adequate process after knowingly permitting him to openly reside and work in the United States for years following government-directed biometrics, fingerprinting, security vetting, and the issuance of an Employment Authorization Document;

E) Declare that Respondents' actions detaining Petitioner under an improper statutory framework, without lawful authority and without a reasoned explanation, were arbitrary, capricious, an abuse of discretion, and not in accordance with law, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2);

F) Set aside Respondents' unlawful action under the Administrative Procedure Act, pursuant to 5 U.S.C. § 706(2)(A);

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

H) Order Respondents to restore Petitioner to the status quo ante litem, including returning all of Petitioner's documents and personal belongings upon his release;

I) Enjoin Respondents from re-arresting or re-detaining Petitioner absent compliance with constitutional requirements, including constitutionally adequate pre-deprivation notice, identification of any changed circumstances, and a meaningful pre-deprivation hearing before a neutral decisionmaker;

J) In the alternative, order a constitutionally adequate custody hearing, at which Respondents bear the burden of demonstrating by clear and convincing evidence that Petitioner's continued detention is necessary because he poses a danger to the community or a risk of flight, and at which the neutral adjudicator must consider alternatives to detention and Petitioner's ability to pay any bond imposed;

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

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

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

Respectfully submitted,

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave, Suite 9
Chula Vista, CA 91910
Phone: (619) 777-6796
Email: info@alexmonsalvelawfirm.com
Counsel for Petitioner

Dated: July 10, 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's immigration counsel and on my review of the immigration records and supporting documentation provided by immigration counsel, including, but not limited to, Petitioner's biometrics appointment notice, employment-authorization approval notice, Employment Authorization Document, passport, records concerning his pending Form I-589, and available detention information.

Based on my review of that information and documentation, 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
Alex Monsalve Law Firm, PC
240 Woodlawn Ave, Suite 9
Chula Vista, CA 91910
Phone: (619) 777-6796
Email: info@alexmonsalvelawfirm.com
Counsel for Petitioner

Dated: July 10, 2026