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Counsel for Petitioner
Valentino Martinez Hernandez,

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF CALIFORNIA**

Valentino Martinez Hernandez,

Petitioner,

v.

MARKWAYNE MULLIN,, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, U.S. Attorney General; Todd LYONS, Acting Director, Immigration and Customs Enforcement; JOSEPH FREDEN, Acting Field Office Director, U.S. Immigration & Customs Enforcement (ICE), CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Facility; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; IMMIGRATION AND CUSTOMS ENFORCEMENT; and U.S. DEPARTMENT OF HOMELAND SECURITY,

Respondents.

**Case No.** '26CV3963 JLS VET

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241; VERIFIED PETITION**

**PETITIONER'S A NO** [redacted]

## I. INTRODUCTION

1. Petitioner Valentino Martinez Hernandez, by and through undersigned counsel, respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, together with claims for declaratory and injunctive relief, challenging his ongoing and unlawful civil immigration detention by the Department of Homeland Security ("DHS") and U.S. Immigration and Customs Enforcement ("ICE").
2. Petitioner is a native and citizen of Mexico who entered the United States without inspection on or about May 25, 2005.
3. Petitioner has therefore resided in the United States for more than twenty years.
4. Petitioner is currently detained by ICE at the Otay Mesa Detention Center in San Diego County, California.
5. Petitioner has no criminal convictions.
6. Petitioner was married to a lawful permanent resident, who passed away in 2023.
7. Petitioner is the sole surviving parent of twin United States citizen children born [redacted]
8. Petitioner's twin children were born prematurely and require ongoing care, therapy, developmental support, and specialized attention.
9. Petitioner is the children's only surviving parent and primary caregiver.
10. On October 15, 2025, while attending a scheduled ICE check-in, Petitioner was detained.
11. On April 14, 2026 the immigration judge ordered Petitioner Removed.
12. Petitioner appealed the Court's decision and his appeal remains pending.

13. Petitioner does not challenge any final order of removal.

14. Petitioner challenges only the legality of his present detention and the absence of a lawful and constitutionally adequate custody determination.

15. Petitioner's detention is unlawful for several independent reasons.

16. First, because Petitioner was detained after more than twenty years of residence and substantial ties within the United States, the discretionary detention framework of 8 U.S.C. § 1226 governs his custody, rather than the entry-focused detention provisions of 8 U.S.C. § 1225(b) or the post-final-order detention provisions of 8 U.S.C. § 1231.

17. Second, Respondents have not established that Petitioner is subject to mandatory detention under 8 U.S.C. § 1226(c).

18. Third, Respondents have failed to provide a constitutionally adequate custody determination supported by individualized findings demonstrating that continued detention is necessary.

19. Fourth, Petitioner's continued detention is arbitrary because Respondents have not demonstrated that he presently poses either a danger to the community or a flight risk that cannot be mitigated through reasonable conditions of release.

20. Fifth, Petitioner's continued detention is especially unjustified given his more than twenty years of residence, his lack of criminal convictions, his prima facie eligibility for cancellation of removal, his twin United States citizen children, his role as their sole surviving parent, and the absence of any final removal order.

21. Federal courts have repeatedly recognized that immigration detention must comply with both statutory and constitutional limitations and that physical liberty lies at the core of the protections guaranteed by the Due Process Clause.

22. Immediate judicial intervention is warranted.

23. Immediate release is the proper remedy because Petitioner is detained under an unlawful and constitutionally deficient custody framework.

24. In the alternative, should the Court decline to order immediate release outright, Petitioner respectfully requests a prompt constitutionally adequate custody determination before a neutral decision-maker within five (5) days, with Respondents bearing the burden of proving by clear and convincing evidence that continued detention is necessary.

25. Every additional day of Petitioner's detention inflicts continuing and irreparable harm upon him and his twin United States citizen children, particularly because the children are premature toddlers who require ongoing care, therapy, and stability from their only surviving parent.

## II. JURISDICTION

37. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody under federal authority and challenges the legality of that custody. See 28 U.S.C. §§ 2241(a), (c)(3); Preiser v. Rodriguez, 411 U.S. 475, 484 (1973).

38. Habeas jurisdiction extends to claims that immigration detention violates the Constitution or exceeds statutory authority. See Zadvydas v. Davis, 533 U.S. 678, 687–88, 699 (2001).

39. Petitioner does not seek review of a final order of removal.

40. Rather, Petitioner challenges only the legality of his present detention and the absence of constitutionally adequate custody procedures governing that detention.

41. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and other laws of the United States.

42. The Administrative Procedure Act, 5 U.S.C. § 706, further supports judicial review to the extent Respondents' detention decisions constitute arbitrary, capricious, unlawful, or ultra vires agency action.

43. Jurisdiction is not barred by 8 U.S.C. §§ 1252(b)(9) or 1252(g) because Petitioner does not challenge the Government's decision to commence removal proceedings, adjudicate removability, or execute a final order of removal.

44. Instead, Petitioner challenges only the statutory and constitutional authority for his present civil immigration detention and the procedures employed to justify that detention. Such claims fall squarely within this Court's habeas jurisdiction. See Jennings v. Rodriguez, 583 U.S. 281, 293–95 (2018); Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471, 482 (1999).

45. The relief requested in this Petition does not interfere with the Immigration Court's adjudication of Petitioner's underlying removal proceedings or his application for cancellation of removal. Rather, it seeks review of an independent constitutional and statutory injury arising from Petitioner's present confinement.

46. Federal district courts have long exercised habeas jurisdiction over constitutional and statutory challenges to immigration detention, including challenges to the

legal authority under which detention is imposed and the adequacy of the procedures governing continued confinement. See Demore v. Kim, 538 U.S. 510, 516–17 (2003); Zadvydas, 533 U.S. at 687–88.

47. Accordingly, this Court possesses subject matter jurisdiction to determine the legality of Petitioner's detention and to grant appropriate habeas, declaratory, and injunctive relief.

## III. VENUE

48. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) because Petitioner is detained within the Southern District of California, specifically at the Otay Mesa Detention Center in San Diego County, and Respondents are officers and employees of the United States who operate and maintain immigration detention facilities within this District.

49. Venue is also proper under Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493–500 (1973), because Petitioner's immediate custodian is located within this District and Petitioner's confinement is within the territorial jurisdiction of this Court.

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

50. Under 28 U.S.C. § 2241, federal courts may entertain petitions for habeas corpus filed by persons who are in custody in violation of the Constitution or laws of the United States.

51. Petitioner satisfies these statutory requirements because he is presently detained under federal authority and alleges that his continued detention violates the Constitution and laws of the United States.

52. This is a classic habeas corpus case.

53. Petitioner challenges the fact and legality of his present civil immigration confinement and seeks judicial relief from an ongoing deprivation of his liberty.

54. Section 2243 requires prompt judicial action in habeas corpus proceedings.

55. Specifically, the statute directs that the Court shall "forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted," unless it plainly appears from the petition that the petitioner is not entitled to relief.

56. The urgency of habeas review is particularly compelling where, as here, Petitioner remains deprived of his physical liberty while removal proceedings are ongoing and no administratively final order of removal has been entered.

57. Petitioner challenges only the legality of his present detention under the Immigration and Nationality Act and the United States Constitution.

## V. PARTIES

58. Petitioner Valentino Martinez Hernandez is a native and citizen of Mexico.

59. Petitioner entered the United States without inspection on or about May 25, 2005.

60. Although Petitioner was apprehended while attempting to enter the United States, he has remained continuously present in the United States since that date.

61. Petitioner has therefore resided continuously in the United States for more than twenty years.

62. Petitioner has no criminal convictions.

63. Petitioner has no known disqualifying immigration bars.

64. On October 15, 2025, while attending a scheduled ICE check-in, Petitioner was taken into custody by immigration authorities.

65. On April 14, 2026, the immigration judge ordered Petitioner removed.

66. Petitioner appealed the judge's decision and his appeal remains pending.

67. Petitioner challenges only the legality of his present civil immigration detention and the statutory and constitutional authority under which Respondents continue to confine him.

## VI. RESPONDENTS

68. Respondent CHRISTOPHER J. LAROSE is the warden of Otay Mesa Detention Facility and has immediate physical custody over Petitioner. As the local custodian, the Warden is responsible for the day-to-day administration of the detention facility where Petitioner is held. The Warden is sued in his/her official capacity as a representative of the entity exercising direct custody over Petitioner.

69. Respondent JOSEPH FREDEN is the Acting Field Office Director of U.S. Immigration and Customs Enforcement (ICE), in San Diego California. ICE is the component of the Department of Homeland Security (DHS) which is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. Mr. Freden is named in his official capacity. In his official capacity, he is a legal custodian of the petitioner.

70. Respondent MARKWAYNE MULLIN, in her official capacity as the Secretary of the Department of Homeland Security, is the highest-ranking official in DHS. She has ultimate authority over ICE and the enforcement of immigration laws, including detention policy. DHS, under Respondent Noem's direction, is

responsible for the decision to continue Petitioner's detention and to designate him as subject to mandatory custody. She is sued in her official capacity.

71. Respondent TODD BLANCHE, in her official capacity as the Attorney General of the United States, oversees the U.S. Department of Justice, which includes the Executive Office for Immigration Review (EOIR). EOIR encompasses the nation's Immigration Courts and the Board of Immigration Appeals (BIA). The Attorney General has ultimate authority over immigration court procedures, including the availability of bond hearings and the interpretation of detention statutes through precedent decisions. Respondent Bondi is sued in her official capacity.

72. Respondent EOIR (Executive Office for Immigration Review) is a component of the U.S. Department of Justice responsible for adjudicating immigration proceedings. EOIR includes the Immigration Judges who conduct removal and bond proceedings, as well as the BIA which issues appellate administrative decisions. EOIR is sued as a Respondent because it is responsible for administering the bond hearing process (or lack thereof) at issue in this case. EOIR has failed to provide Petitioner a custody redetermination process, and Petitioner seeks relief to compel EOIR to perform its duty to afford him a bond hearing under the correct legal standards.

## VII. LEGAL FRAMEWORK

98. Federal immigration law establishes distinct detention schemes under the Immigration and Nationality Act ("INA") depending upon a noncitizen's procedural posture.

99. Section 1225(b) governs the detention of certain applicants for admission and recent entrants seeking admission into the United States.

100. Section 1226 governs the arrest and detention of noncitizens already present in the United States while removal proceedings remain pending.

101. Section 1231 governs detention following the entry of a final administrative order of removal.

102. The Supreme Court has recognized that these statutory provisions establish separate detention authorities depending upon a noncitizen's procedural posture. See Jennings v. Rodriguez, 583 U.S. 281, 289 (2018).

103. Petitioner falls within the category of long-term interior residents whose detention is governed by 8 U.S.C. § 1226.

104. Petitioner entered the United States without inspection on or about May 25, 2005.

105. Petitioner was not detained at or near the time of his entry for purposes of the present detention challenged in this Petition.

106. Rather, Petitioner lived openly within the interior of the United States for approximately two decades, established deep family and community ties, and fully integrated into his community before ICE detained him during a routine check-in on October 15, 2025.

107. Under these circumstances, the discretionary detention provisions of 8 U.S.C. § 1226 govern Petitioner's detention.

108. Recent district court authority has recognized that long-term interior residents detained years after their entry into the United States are detained

pursuant to § 1226 rather than § 1225. See Beltran v. Noem, No. 25-cv-2650-LL-DEB, 2025 WL 3078837, at *4–7 (S.D. Cal. Nov. 4, 2025).

109. Likewise, in Ramirez v. Noem, No. 3:26-cv-01880-RBM-VET (S.D. Cal. Apr. 9, 2026), the court held that where a petitioner had resided in the United States for more than twenty years before being detained, the discretionary detention procedures of § 1226 governed detention and habeas relief was warranted.

110. The reasoning of Ramirez applies with equal force here.

111. Petitioner has continuously resided in the United States for more than twenty years before his detention.

112. During that period, Petitioner established exceptionally strong ties to the United States.

113. Petitioner is the sole surviving parent of twin United States citizen children.

114. Petitioner's wife, who was a lawful permanent resident, passed away in 2023 shortly after the birth of their children.

115. Respondents have not established that Petitioner is subject to mandatory detention under 8 U.S.C. § 1226(c).

116. Petitioner has no criminal convictions.

117. Respondents therefore bear the burden of demonstrating that Petitioner's continued detention is authorized under the proper statutory framework and supported by individualized findings demonstrating that continued detention is necessary.

118. The Fifth Amendment independently limits the Government's authority to detain noncitizens through civil immigration detention. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

119. As the Supreme Court explained, "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." Id.

120. Civil detention must bear a reasonable relationship to a legitimate governmental objective and cannot become excessive in relation to that objective. See Foucha v. Louisiana, 504 U.S. 71, 80 (1992).

121. Due process likewise requires procedures adequate to guard against the erroneous deprivation of liberty. See Mathews v. Eldridge, 424 U.S. 319, 334–35 (1976).

122. Those constitutional protections are especially significant where, as here, continued detention inflicts extraordinary hardship upon vulnerable United States citizen children.

123. Courts have also recognized that delayed or inadequate custody procedures do not cure the constitutional injury caused by unlawful detention. See E.A. T.-B. v. Wamsley, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025); Jorge M.F. v. Jennings, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021); Domingo v. Kaiser, No. 25-cv-05893-RFL, 2025 WL 1940179, at *3 (N.D. Cal. July 14, 2025).

124. In E.A. T.-B., the court held that a post-deprivation custody hearing "cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty."

125. Likewise, Jorge M.F. recognized that once an individual has been detained, the constitutional injury has already occurred.

126. Similarly, Domingo concluded that even a prompt post-detention hearing cannot remedy the deprivation of liberty already suffered.

127. These principles apply with full force here.

128. Respondents continue to detain Petitioner despite his more than twenty years of continuous residence, his absence of criminal convictions, his prima facie eligibility for cancellation of removal, his role as the sole surviving parent of medically vulnerable United States citizen children, and the absence of any individualized showing that continued detention is necessary to serve a legitimate governmental objective.

129. Under these circumstances, Petitioner's continued detention violates both the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

130. Accordingly, this Court should grant habeas relief and order Petitioner's immediate release or, in the alternative, require Respondents to provide a prompt constitutionally adequate custody determination consistent with the requirements of due process.

## VIII. FACTS

136. Petitioner Valentino Martinez Hernandez is a native and citizen of Mexico.

137. Petitioner entered the United States without inspection on or about May 25, 2005.

138. Petitioner has therefore continuously resided in the United States for more than twenty years.

139. Throughout his residence in the United States, Petitioner has established substantial family, community, and employment ties.

140. Petitioner has no criminal convictions.

141. On October 15, 2025, while attending a scheduled ICE check-in, Petitioner was unexpectedly detained by immigration authorities.

142. Petitioner was ordered removed on April 14, 2026.

143. Petitioner appealed the immigration Judge's decision and his appeal remains pending.

144. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego County, California.

145. Petitioner is the father of twin United States citizen children born on [redacted]

146. Petitioner's children were born prematurely.

147. Because of their premature birth, both children continue to require ongoing medical care, developmental monitoring, therapy, and specialized treatment.

148. Their medical and developmental needs require consistent parental involvement, stability, and continuity of care.

149. Petitioner's wife, who was a lawful permanent resident of the United States, passed away in 2023 shortly after the twins were born.

150. As a result of her death, Petitioner became the children's sole surviving parent.

151. Prior to his detention, Petitioner served as the children's sole caregiver, financial provider, and primary source of emotional support.

152. During Petitioner's detention, his sister, [redacted] has assumed temporary responsibility for caring for the children.

153. [redacted] does not possess lawful immigration status.

154. Although she has attempted to assist the children during Petitioner's detention, she cannot permanently replace Petitioner's role as their only surviving parent.

155. Petitioner's detention has deprived his children of the only parent they have remaining.

156. The children continue to require frequent medical appointments, therapy, and developmental services that previously depended upon Petitioner's direct participation and advocacy.

157. Petitioner's continued detention places significant emotional, developmental, and financial strain upon his young family.

## IX. FIRST CLAIM FOR RELIEF
**Violation of the Immigration and Nationality Act**
**Detention Contrary to Law**

Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs:

175. The Immigration and Nationality Act establishes distinct statutory frameworks governing the detention of noncitizens depending upon their procedural posture.

176. Section 1225 governs the detention of certain applicants for admission and recent entrants seeking admission into the United States.

177. Section 1226 governs the arrest and detention of noncitizens already present within the United States while removal proceedings remain pending.

178. Section 1231 governs detention following the entry of a final administrative order of removal.

179. Petitioner does not challenge any administratively final order of removal.

180. Petitioner entered the United States without inspection on or about May 25, 2005.

181. Although Petitioner was apprehended while attempting to enter the United States, he thereafter remained continuously present in the United States for more than twenty years before his present detention.

182. Petitioner's present detention did not occur at the border, at a port of entry, or immediately following his entry into the United States.

183. Rather, Respondents detained Petitioner on October 15, 2025, while he appeared for a scheduled ICE check-in after years of continuous residence within the interior of the United States.

184. Under these circumstances, Petitioner's detention is governed by the discretionary detention provisions of 8 U.S.C. § 1226.

185. The Supreme Court has recognized that detention under § 1226 applies to noncitizens already present within the United States while removal proceedings remain pending. Jennings v. Rodriguez, 583 U.S. 281, 289 (2018).

186. Recent district court authority likewise recognizes that long-term interior residents detained years after entry are governed by § 1226 rather than the entry-focused detention provisions contained in § 1225.

187. In Beltran v. Noem, No. 25-cv-2650-LL-DEB, 2025 WL 3078837, at *4–7 (S.D. Cal. Nov. 4, 2025), the court concluded that detention of a long-term interior resident is governed by § 1226.

188. Likewise, in Ramirez v. Noem, No. 3:26-cv-01880-RBM-VET (S.D. Cal. Apr. 9, 2026), the court held that where a petitioner had resided in the United States for more than twenty years before detention, the discretionary detention provisions of § 1226 governed and habeas relief was warranted.

189. The reasoning of Beltran and Ramirez applies equally here.

190. Petitioner has continuously resided in the United States for more than twenty years before his detention.

191. Accordingly, Respondents may not continue Petitioner's detention except under the discretionary detention framework established by 8 U.S.C. § 1226(a).

192. Even under § 1226(a), Respondents must exercise their detention authority in a manner consistent with the Immigration and Nationality Act and the requirements of the United States Constitution.

193. Congress did not authorize arbitrary detention unsupported by individualized findings or detention that exceeds constitutional limitations.

194. Respondents have continued to detain Petitioner despite his more than twenty years of continuous residence, his complete absence of criminal convictions, his strong family and community ties, his prima facie eligibility for cancellation of removal, and his status as the sole surviving parent of medically vulnerable United States citizen children.

195. Respondents have failed to establish that Petitioner's continued detention is authorized under the proper statutory framework or supported by individualized facts demonstrating that continued confinement remains necessary.

196. Petitioner's continued detention therefore exceeds Respondents' statutory authority under the Immigration and Nationality Act.

197. Because Petitioner is presently in custody in violation of the laws of the United States, habeas relief is authorized under 28 U.S.C. § 2241.

198. Petitioner respectfully requests that this Court declare his continued detention contrary to the Immigration and Nationality Act and grant appropriate habeas relief, including his immediate release or such further relief as the Court deems just and proper.

## X. SECOND CLAIM FOR RELIEF
**Violation of the Fifth Amendment**
**Procedural Due Process**

Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

204. The Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of liberty without due process of law.

205. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

206. Civil immigration detention constitutes a significant deprivation of liberty and therefore must be accompanied by constitutionally adequate procedural safeguards.

207. The Due Process Clause requires procedures sufficient to minimize the risk of an erroneous deprivation of liberty. Mathews v. Eldridge, 424 U.S. 319, 334–35 (1976).

208. Under Mathews, courts evaluate: (1) the private interest affected by the governmental action; (2) the risk of an erroneous deprivation under the procedures used and the probable value of additional procedural safeguards; and (3) the Government's interest, including the fiscal and administrative burdens that additional safeguards would entail.

209. Each of the Mathews factors strongly favors Petitioner.

210. First, Petitioner's private interest is exceptionally significant because continued civil detention deprives him of his physical liberty and prevents him from caring for his family.

211. Petitioner has resided continuously in the United States for more than twenty years.

212. Respondents likewise have not identified individualized facts demonstrating that Petitioner presents a flight risk that cannot be addressed through reasonable conditions of supervision.

213. Petitioner has no criminal convictions.

214. Petitioner has demonstrated compliance with his immigration proceedings over many years, including appearing as required after his removal proceedings were reopened until he was detained during a scheduled ICE check-in.

215. Petitioner's prima facie eligibility for Non-Lawful Permanent Resident Cancellation of Removal under INA § 240A(b)(1) provides him with a substantial incentive to continue appearing for all future immigration proceedings.

216. Additional procedural safeguards—including a constitutionally adequate individualized custody determination applying the proper statutory framework—would substantially reduce the risk of an erroneous deprivation of Petitioner's liberty.

217. Third, the Government's legitimate interests do not justify continued detention without constitutionally adequate procedures.

218. Although the Government possesses legitimate interests in ensuring attendance at removal proceedings and protecting public safety, those interests must be pursued through procedures consistent with due process.

219. Nothing presently known to Petitioner demonstrates that continued detention is necessary to accomplish either objective.

220. Respondents have not shown why less restrictive alternatives to detention—including release on recognizance, reporting requirements, electronic monitoring, or other reasonable conditions of supervision—would be inadequate.

221. Continued detention without constitutionally sufficient procedures therefore imposes a burden upon Petitioner's liberty that is disproportionate to any legitimate governmental interest.

222. The Constitution requires more than conclusory assumptions or categorical detention.

223. Due process requires an individualized determination supported by reliable evidence demonstrating that continued detention remains necessary under the particular facts of Petitioner's case.

224. Respondents have failed to provide constitutionally adequate procedures sufficient to justify Petitioner's continued confinement.

225. As a result, Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.

226. Because Petitioner has been deprived of his liberty without constitutionally adequate procedural protections, his continued detention is unlawful.

227. Petitioner is therefore entitled to habeas relief under 28 U.S.C. § 2241, together with such declaratory and injunctive relief as this Court deems just and proper.

## XI. THIRD CLAIM FOR RELIEF

**Violation of the Administrative Procedure Act**
**5 U.S.C. § 706 – Arbitrary, Capricious, and Contrary to Law Agency Action**

Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

235. To the extent judicial review is available under the Administrative Procedure Act ("APA"), this Court must "hold unlawful and set aside agency action" that is arbitrary, capricious, an abuse of discretion, contrary to law, or in excess of statutory authority. 5 U.S.C. § 706(2)(A), (C).

236. DHS's decision to arrest and continue detaining Petitioner constitutes final agency action because it directly determines Petitioner's continued confinement and deprivation of liberty.

237. Respondents' decision to continue Petitioner's detention is arbitrary and capricious.

238. Respondents failed to meaningfully consider Petitioner's more than twenty years of continuous residence in the United States and his extensive family and community ties.

239. Respondents likewise failed to adequately consider Petitioner's complete absence of criminal convictions.

240. Respondents have not identified any individualized facts demonstrating that Petitioner presently poses either a danger to the community or a risk of flight requiring continued detention.

241. Respondents have not articulated any reasoned explanation demonstrating why continued detention remains necessary under the particular circumstances of Petitioner's case.

242. An agency acts arbitrarily and capriciously when it entirely fails to consider important aspects of the problem before it, fails to examine relevant evidence, or offers an explanation that runs contrary to the evidence before the agency. Motor Vehicle Mfrs. Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983).

243. By continuing Petitioner's detention without adequately considering these critical factors and without providing a reasoned explanation supported by the

administrative record, Respondents acted arbitrarily, capriciously, contrary to law, and in excess of their statutory authority.

244. Accordingly, Petitioner is entitled to relief under 5 U.S.C. § 706, and this Court should declare Respondents' detention decision unlawful and grant appropriate habeas, declaratory, and injunctive relief.

## XII. FOURTH CLAIM FOR RELIEF
**Violation of the Fifth Amendment**
**Substantive Due Process – Arbitrary Civil Detention**

Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

256. The Due Process Clause of the Fifth Amendment imposes substantive limitations on the federal government's authority to subject individuals to civil immigration detention. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

257. Immigration detention is civil rather than criminal in nature and therefore may not be imposed for punitive purposes. Zadvydas, 533 U.S. at 690; Foucha v. Louisiana, 504 U.S. 71, 80 (1992).

258. As the Supreme Court has recognized, freedom from government detention lies at the very core of the liberty protected by the Due Process Clause.

259. Accordingly, continued civil detention must remain reasonably related to legitimate governmental interests such as ensuring attendance at immigration proceedings or protecting the community from genuine danger.

260. Petitioner has resided continuously in the United States for more than twenty years and has established exceptionally strong family and community ties.

261. Petitioner has no criminal convictions.

262. Respondents have not identified any individualized facts demonstrating that Petitioner presently poses a danger to the community.

263. Respondents likewise have not identified individualized facts establishing that Petitioner presents a flight risk that cannot reasonably be addressed through appropriate conditions of release.

264. Respondents have not demonstrated that Petitioner's continued confinement is reasonably necessary to ensure his appearance in immigration proceedings.

265. Respondents likewise have not demonstrated that continued detention is reasonably necessary to protect the public.

266. Instead, Petitioner's detention has become excessive, arbitrary, and unsupported by individualized findings demonstrating any present necessity.

267. The Constitution does not permit continued civil detention based upon generalized assumptions or categorical conclusions.

268. Rather, substantive due process requires an individualized determination demonstrating that continued detention remains reasonably related to legitimate governmental objectives.

269. Where, as here, Respondents fail to establish that continued detention serves those objectives, civil confinement becomes arbitrary and unconstitutional.

270. Petitioner's continued detention therefore violates the substantive protections guaranteed by the Due Process Clause of the Fifth Amendment.

271. Because Petitioner's detention is not reasonably related to any demonstrated legitimate governmental objective and is excessive in relation to any articulated purpose, it constitutes unconstitutional arbitrary civil detention.

272. Petitioner is therefore entitled to habeas, declaratory, and injunctive relief directing his immediate release or, in the alternative, other constitutionally adequate relief as this Court deems appropriate.

## XIII. FIFTH CLAIM FOR RELIEF
**Immediate Release Required; Alternatively, Prompt Constitutionally Adequate Custody Determination**

Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs:

283. Immediate release is the appropriate remedy where a noncitizen is detained under an unlawful statutory framework or without constitutionally adequate procedural protections.

284. In Ramirez v. Noem, No. 3:26-cv-01880-RBM-VET (S.D. Cal. Apr. 9, 2026), the court held that where a petitioner had resided in the United States for more than twenty years before being detained, the discretionary detention provisions of 8 U.S.C. § 1226 governed detention and habeas relief was warranted.

285. The court further concluded that immediate release, rather than a delayed or inadequate custody proceeding, constituted the proper remedy under the circumstances.

286. The reasoning of Ramirez applies with equal force here.

287. Petitioner entered the United States on or about May 25, 2005, and has continuously resided in this country for more than twenty years.

288. During those two decades, Petitioner established exceptionally strong family, employment, and community ties within the United States.

289. Federal courts have repeatedly recognized that a delayed or post-deprivation custody proceeding cannot fully remedy the constitutional injury caused by unlawful detention.

290. In E.A. T.-B. v. Wamsley, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025), the court explained that a post-detention hearing "cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty."

291. Likewise, in Jorge M.F. v. Jennings, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021), the court recognized that once a petitioner has been detained, the injury—the deprivation of liberty—has already occurred. Similarly, in Domingo v. Kaiser, No. 25-cv-05893-RFL, 2025 WL 1940179, at *3 (N.D. Cal. July 14, 2025), the court held that even a prompt post-detention custody determination cannot undo the constitutional harm resulting from potentially unlawful detention.

292. These principles apply with particular force in Petitioner's case. Continued detention not only deprives Petitioner of his physical liberty but also deprives his premature twin United States citizen children of the care, supervision, stability, and advocacy of their only surviving parent.

293. Under these circumstances, immediate release is the only remedy capable of fully addressing the continuing constitutional violation.

294. In the alternative, should this Court decline to order Petitioner's immediate release, the Court should require Respondents to provide Petitioner with a prompt constitutionally adequate custody determination before a neutral decision-maker within five (5) days.

295. At that custody determination, Respondents should bear the burden of proving by clear and convincing evidence that Petitioner presently poses a danger to the community or a risk of flight that cannot reasonably be mitigated through appropriate conditions of release.

296. If Respondents fail to provide such a constitutionally adequate custody determination within the time ordered by this Court, Petitioner should be immediately released from custody.

297. The Court should further prohibit Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of this action absent prior authorization from the Court.

298. Because Petitioner's continued detention violates both federal statutory law and the Fifth Amendment, this Court should grant the requested Writ of Habeas Corpus and order Petitioner's immediate release or such other relief as justice requires.

## XIV. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this Petition pursuant to 28 U.S.C. §§ 2241 and 1331;
2. Issue the Writ of Habeas Corpus or, alternatively, issue an Order directing Respondents to show cause why the writ should not be granted pursuant to 28 U.S.C. § 2243;

3. Declare that Petitioner's continued detention is unlawful and violates the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment;
4. Declare that Petitioner's detention is governed by 8 U.S.C. § 1226 and not by the detention provisions of 8 U.S.C. § 1225(b) or 8 U.S.C. § 1231;
5. Declare that Respondents have failed to provide Petitioner with constitutionally adequate procedural protections sufficient to justify his continued civil immigration detention;
6. Declare that Petitioner's continued detention, absent individualized findings demonstrating present necessity, violates both procedural and substantive due process under the Fifth Amendment;
7. Declare that Respondents' continued detention of Petitioner is arbitrary, capricious, contrary to law, and in excess of their statutory authority within the meaning of the Administrative Procedure Act, 5 U.S.C. § 706;
8. Issue a Writ of Habeas Corpus directing Respondents to immediately release Petitioner from immigration custody, subject to reasonable conditions of supervision if the Court deems such conditions appropriate;
9. In the alternative, if the Court declines to order Petitioner's immediate release, order Respondents to provide Petitioner with a prompt and constitutionally adequate custody determination before a neutral decision-maker within five (5) days of the Court's Order;
10. Order that, at any such custody determination, Respondents bear the burden of proving by clear and convincing evidence that Petitioner presently poses

either a danger to the community or a risk of flight that cannot reasonably be mitigated through appropriate conditions of release;

11. Order that, if Respondents fail to provide the constitutionally adequate custody determination required by this Court within the prescribed time, Petitioner shall be immediately released from custody;

12. Issue appropriate declaratory and injunctive relief prohibiting Respondents from continuing Petitioner's unlawful detention during the pendency of this action;

13. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court while this Petition remains pending, absent prior authorization from this Court;

14. Award Petitioner his reasonable attorneys' fees and costs to the extent authorized by law, including pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412;

15. Grant such other and further relief as this Court deems just, proper, and equitable under the circumstances.

Respectfully submitted on:
July 02, 2026

/s/ Daniel S. Castaneda

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**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I, Daniel S. Castaneda, submit this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully submitted on:

Dated: July 02, 2026

/s/ Daniel S. Castaneda
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