NICOLETTE GLAZER
2121 Avenue of the Stars, 8th Floor
Century City, CA 90067
(310) 735-3478
Email:nicolette@glazerandglazer.com

LOCAL COUNSEL

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

EMMANUEL VILLAFRANCO- MIRANDA

Petitioner

vs.

CHRISTOPHER J. LA ROSA, Warden Otay Mesa Detention Center;

MARKWAYNE MULLIN Secretary of the U.S. Department of Homeland Security;

TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement and

TODD BLANCHE, Attorney General of the United States, in their official capacities,

Respondents.

Case No.: '26CV4067 LL GC

[redacted]

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

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INTRODUCTION

1. Petitioner Emmanuel Villafranco- Miranda A# [redacted] is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Otay Mesa Detention Center in San Diego, CA. Petitioner was detained by ICE on or about June 29th, 2026, in Plainfield, NJ on his way to work, and transferred to San Diego, CA on or about July 8th, 2026.
2. Petitioner entered the United States on or about March 2021 from El Salvador. Upon initial entry in early 2021, Petitioner was stopped by immigration officials and sent to Mexico under Title 42 without giving him the meaningful opportunity to apply for asylum in the United States.
3. Petitioner later reentered the United States, has remained in the United States and has not had any issues with enforcement agencies. He has not been arrested, nor has he committed any crimes.
4. Petitioner was initially detained in Elizabeth, New Jersey and later transferred to the California City Immigration Processing Center.
5. Petitioners Respectfully asks this Court to find that his continued detention violates federal law and the Constitution, and to order his immediate release from ICE custody, or such other relief as is necessary to remedy the unlawful restraint on his liberty.

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act.
7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution.

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

VENUE

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States sued in their official capacities, and a substantial part of the events and legal decisions giving rise to Petitioner's claims are attributable to federal officials subject to this Court's jurisdiction.

10. Venue is additionally proper because Petitioner seeks relief against federal custodial authorities responsible for the legality of her detention.

REQUIREMENTS OF 28 U.S.C. § 2243

11. Under 28 U.S.C. § 2243, this Court must either grant the writ or issue an Order to Show Cause forthwith unless Petitioner is not entitled to relief.

12. The habeas statute reflects the fundamental role of habeas corpus as a swift and imperative remedy against unlawful detention. Fay v. Noia, 372 U.S. 391, 400 (1963).

PARTIES

13. Petitioner is a noncitizen currently detained at Otay Mesa Detention Center in San Diego, California. He is in custody and control of Respondents and their agents.

14. Respondent, Christopher J. LaRosa, Warden is the immediate physical custodian of Petitioner.

15. Respondent Acting Director of the ICE Field Office is a legal custodian with authority over Petitioner's detention.

16. Respondent Secretary of Department of Homeland Security is responsible for the implementation and enforcement of the Immigration and Nationality Act.

17. Respondent Acting Attorney General is responsible for oversight of immigration adjudication through EOIR.

STATEMENT OF FACTS

18. Petitioner entered the United States without inspection on or about 2021. He was stopped at the border and returned to Mexico Under title 42, which ended in 2023 without giving him the meaningful opportunity to apply for asylum. He reentered the United States later on that year, and at that time, he was not detained by immigration officials. Petitioner has lived and worked in the United States for over 5 years. He has never been arrested, nor has he had any issues with any law enforcement officials. In fact, at the time of his detention, Petitioner was on his way to work in Plainfield, NJ.

19. Petitioner is currently detained pursuant to the immigration detention authority of the Immigration and Nationality Act.

20. Petitioner is not an enforcement priority for the Department of Homeland Security as he has no criminal record in the United States or in any other country.

21. Mr. Villafranco's unlawful and continued detention pursuant to DHS's policy without any individualized determination as to why continuous detention is appropriate has caused immense and ongoing harm to Mr. Villafranco, his family, and his community.

22. Mr. Nieves brings this petition to seek immediate release so that he can pursue a claim for Asylum, Withholding of Removal, and Convention Against Torture.

LEGAL FRAMEWORK

23. Petitioner is classified as an alien present in the United States who has not been admitted or paroled.

24. For that reason, the Petitioner is subject to detention currently pursuant to 8 U.S.C. § 1225(a)(1), which provides that a noncitizen "present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." The statute defines an "applicant for admission" as

"[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . ." 8 U.S.C. § 1225(a)(1).

25. § 1225(b)(2)(A) generally requires mandatory detention of certain "applicant[s] for admission" during their removal proceedings. Individuals subject to mandatory detention under § 1225(b)(2)(A) may, however, be "temporarily released on parole 'for urgent humanitarian reasons or significant public benefit.'" Jennings v. Rodriguez, 583 U.S. 281, 288 (2018) (quoting § 1182(d)(5)(A)). This parole "shall not be regarded as an admission" of the noncitizen. 8 U.S.C. § 1182(d)(5)(A). 45. Once the purposes of parole have been served, the noncitizen "shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." Id.

26. By contrast, § 1226(a) sets forth "the default rule" for detaining noncitizens "already present in the United States." Jennings, 583 U.S. at 303. Section 1226(a) provides that, "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a).

27. Unlike § 1225(b)(2)(A), noncitizens who fall under § 1226(a) are not subject to mandatory detention. Pending a removal decision, the Attorney General may continue to detain an arrested noncitizen, release them on bond, or release them on conditional parole, unless they fall within certain exceptions involving criminal offenses and terrorist activities. See 8 U.S.C. § 1226(a) (1)-(2), (c).

28. The Respondents have taken the position in courts across the country that § 1226(a), and the possibility of release on bond, only applies to individuals who are present in the country with lawful status but are in removal proceedings. However, section 1226(a) does not contain a requirement of lawful status, and "courts are not free to read into the language

[of a statute] what is not there." See O'Hara v. Nika Techs., Inc., 878 F.3d 470, 475 (4th Cir. 2017).

29. Presumably, the Respondents will take the position that the Petitioner in this case is detained pursuant to § 1225(b)(2) because he entered this country without inspection.

30. Respondents have not identified any lawful basis for Petitioner's arrest and detention other than Petitioner's status as a noncitizen. Respondents' contention that Petitioner is an "alien seeking admission" subject to mandatory detention under 8 U.S.C. § 1225 has been repeatedly rejected by courts.

31. Further, applying § 1225 to all persons who have not been admitted into the United States would conflict with the statute's broader structure, the Supreme Court's traditional understanding of the relationship between §§ 1225(b) and 1226(a), and decades of immigration practice. "[O]ne of the most basic . . . . canons" of statutory interpretation is that "a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." Corley v. United States, 556 U.S. 303, 314 (2009) (quoting Hibbs v. Winn, 542 U.S. 88, 101 (2004)) (internal brackets omitted).

32. By contrast, the Respondents' position that § 1225(b) applies to all persons who have not been admitted into the United States would render multiple provisions of § 1226 superfluous. For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

33. If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.

34. The Respondents' theory also conflicts with the Supreme Court's previous interpretation of the relationship between §§ 1225(b) and 1225(a). In Jennings, the Supreme Court explained that § 1225(b) governs noncitizens "seeking admission into the country," whereas § 1226(a) governs noncitizens "already in the country" who are subject to removal proceedings. Jennings, 583 U.S. at 289. That interpretation is consistent with the core logic of our immigration system. "[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.

35. In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely 'on the threshold of initial entry.'" Leng May Ma, 357 U.S. at 187 (quoting Shaughnessy v. United States ex rel. Mezei, 345 U.S. 206, 212 (1953)); accord Zadvydas, 533 U.S. 678, 693 (2001) ("The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law.").

36. Given this precedent, it is doubtful that Congress intended § 1225(b)(2) to apply to individuals like the Petitioner who was detained after being present in the U.S. for an extended period of time, who had not committed any crimes, and who were fully compliant with all requirements to attend ICE check-ins and immigration court hearings.

37. DHS's historic practice reinforces § 1226(a)'s application to noncitizens in the Petitioner's position who are arrested well after arriving to this country.

Asylum and Refugee Law

38. 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).

39. 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).

40. 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.

41. 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 opinion 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).

42. 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).

43. In this case, The Petitioner filed a timely application for asylum. She fears persecution in her home country. At the time of the filing, Petitioner was physically present in the United States after being released on her own recognizance.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process

44. The allegations in paragraphs 1-43 above are incorporated 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. Civil detention must be justified by individualized findings demonstrating that continued confinement serves a legitimate governmental purpose. Petitioners have received no such determination.

47. To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the balancing test set forth in Mathews v. Eldridge, 424 U.S. 319 (1976). United States v. Silvestre-Gregorio, 983 F.3d 848, 852 (6th Cir. 2020) (applying the Matthews v. Eldridge test in the context of immigration).

48. Accordingly, Petitioner's continued confinement without a bond hearing violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Unlawful Custody in Violation of Due Process and 28 U.S.C. § 2241 and the Fifth Amendment

49. The allegations in paragraphs 1-43 above are incorporated herein.

50. Petitioner is being held in civil immigration custody without a demonstrated statutory or constitutional basis authorizing the continuation of his confinement.

51. Respondents have failed to establish that Petitioner's detention remains reasonably related to any lawful governmental purpose.

52. Because habeas corpus exists to remedy unlawful restraints on liberty, Petitioner's continued detention is unlawful under 28 U.S.C. § 2241 and violates the Due Process Clause of the Fifth Amendment.

COUNT THREE

Violation of 8 U.S.C. § 1226(a) Unlawful Denial Of Release on Bond

53. The allegations in paragraphs 1-43 above are incorporated herein.

54. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

55. Under§ 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. See 8 C.F.R. 236.l(d) & 1003.19(a)-(f).

56. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

57. Petitioner's continuing detention is therefore unlawful.

COUNT FOUR

Agency Action Not in Accordance with Law and In Excess of Statutory Authority (Administrative Procedure Act)

58. The allegations in paragraphs 1-43 above are incorporated herein.

59. The Administrative Procedure Act authorizes this Court to "hold unlawful and set aside" agency action that is not in accordance with law or is in excess of statutory authority. See 5 U.S.C. § 706(2)(A), (C).

60. Respondents' decision to detain Petitioner under a mandatory detention framework is contrary to law because Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b).

61. By subjecting Petitioner to a detention scheme that does not apply to her circumstances, Respondents have acted in excess of their statutory authority.

62. Respondents' continued detention of Petitioner without providing the procedural protections required under§ 1226(a), including an individualized bond determination, is not in accordance with law.

63. Respondents' actions are further arbitrary and capricious because they have failed to provide any reasoned basis for re-detaining Petitioner after previously releasing her, despite no material change in circumstances.

64. Accordingly, Respondents' actions must be held unlawful and set aside.

PRAYER FOR RELIEF

65. Wherefore, Petitioner respectfully requests this Court:

66. To assume jurisdiction over this matter;

67. To issue an Order to Show Cause directing Respondents to justify Petitioner's continued detention;

68. To declare that Petitioner's detention violates the Fifth Amendment and federal habeas law;

69. To issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from ICE custody, or, in the alternative, to order Respondents to provide Petitioner with a prompt, individualized judicial hearing to determine the lawfulness and necessity of his continued detention;

70. And to grant such further relief as this Court deems just and proper.

DATED: July 9, 2026

s/Nicolette Glazer

NICOLETTE GLAZER, ESQ.

Local Counsel