Lilia Rodriguez (SBN 313007)
The Law Office of Erika Rodriguez
1450 Frazee Rd, Ste 303
San Diego, CA 92108
Lilia@erlawsd.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Josue Daniel Villegas Jimenez

Petitioner,

v.

Jeremy CASEY, in his official capacity as Warden of Imperial Regional Detention Facility; Gregory J. ARCHAMBEAULT, in his official capacity as San Diego Field Office Director, ICE Enforcement Removal Operations; Todd LYONS, in his official capacity as Acting Director of ICE; and Markwayne MULLIN, in his official capacity as Secretary of Homeland Security,Todd BLANCHE, Acting U.S. Attorney General; IMMIGRATION AND CUSTOMS ENFORCEMENT; DEPARTMENT OF HOMELAND SECURITY,

Respondents.

'26CV4077 LL JAC

PETITION FOR WRIT OF HABEAS CORPUS

[redacted]

I. INTRODUCTION

1. Petitioner Josue Daniel Villegas Jimenez ("Petitioner") is a 29 year-old Mexican national who last entered the United States on or about June 2026. Prior to a brief departure Petitioner lived in Oregon with his partner and two U.S. Citizen Children.
2. The Petitioner entered the United States without inspection.
3. Petitioner is an asylee. Petitioner obtained his asylees status from his mother who is now a Lawful Permanent Resident. Petitioner briefly left the United

States due to his grandmother's illness. Petitioner returned without inspection, was apprehended and detained at Imperial Regional Detention Facility on or about June 16, 2026.

II. VENUE AND JURISDICTION

4. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (Suspension Clause), as Petitioner is presently in custody under the authority of the United States and challenging his detention as in violation of the Constitution, laws, or treaties of the United States.

5. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

6. Venue is proper because Petitioner is detained in the Imperial Regional Detention Facility, within the San Diego Division, and Respondent Casey is his immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

7. Petitioner, a 29-year-old Mexican national who resides in Oregon He is currently detained by Respondents at the Imperial Detention Facility in Imperial, CA, pending removal proceedings.

8. Respondent Jeremy Casey is the Warden of Imperial Regional Detention Facility. Respondent Casey is responsible for the operation of the Detention Center where Petitioner is detained. As such, Respondent Casey has immediate

physical custody of the Petitioner. He is being sued in his official capacity.

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

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

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

12. Respondent Todd Blanche is the Acting Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

IV. EXHAUSTION OF REMEDIES

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

jurisdictionally required.

14. Moreover, additional agency steps would be futile. Since Immigration Judges are adhering to the BIA's precedent decision *Matter of Yajure* Hurtado, 28 I&N Dec. 216 (BIA 2025). In its decision, the BIA adopted DHS' reading of 8 U.S.C. § 1225(b)(2), finding individuals similarly situated to Petitioner who are apprehended after entering without inspection are allegedly ineligible for release on bond.

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V. STATEMENT OF FACTS

15. Petitioner is a Mexican National [redacted] He last entered the United States without inspection in June 2026, after a brief absence. Previously he resided in Oregon since 2017.

16. Petitioner's mother, Nohemi Jimenez Perez, obtained asylum after which she petitioned for him as a derivative. Her petition was approved on March 25, 2023. Petitioner has held asylee status since that time.

17. The petitioner does not have a criminal record.

18. Petitioner went to Mexico in light of his grandmother's ongoing treatment for bone cancer. Petitioner returned to the United States where his partner and two U.S. Citizen children reside.

19. Petitioner returned without inspection and remains an asylee.

20. He is currently detained at the Imperial Regional Detention Facility awaiting removal proceedings.

21. The Petitioner remains detained without any recourse. He now seeks habeas relief because of continued detention which violates Due Process and the Fifth Amendment.

VII. CAUSES OF ACTION

Violation fo the INA:

First Claim Petitioner is not subject to Mandatory Detention Under INA 235 (b)

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

23. Respondents may attempt to characterize Petitioner as an "arriving alien" subject to mandatory detention under INA § 235(b). That position is legally unsustainable.

24. The Ninth Circuit has emphasized that detention authority depends upon the noncitizen's actual legal posture and immigration status, not merely DHS's unilateral classification. See Rodriguez v. Robbins, 804 F.3d 1060, 1074–75 (9th Cir. 2015), rev'd on other grounds Jennings v. Rodriguez, 583 U.S. 281 (2018).

25. Petitioner is distinguishable from a typical arriving alien seeking initial admission because Petitioner was already granted asylum by an Immigration Judge. An asylee possesses lawful status and significant liberty interests protected by the Due Process Clause. See Landon v. Plasencia, 459 U.S. 21, 32–34 (1982) (lawful residents returning from travel abroad possess due process rights in exclusion proceedings); Kwong Hai Chew v. Colding, 344 U.S. 590, 596–98 (1953).

26. The Supreme Court has long rejected the notion that returning noncitizens with established ties and lawful status may categorically be treated identically to first-time entrants. See Landon, 459 U.S. at 32–33. Although Petitioner traveled abroad, he returned to the United States with preexisting lawful status granted through asylum proceedings. Absent lawful

termination of that status, DHS cannot erase Petitioner's protected interests through mere detention.

27. Where detention statutes are ambiguous, courts must construe them in a manner consistent with constitutional avoidance principles. See Zadvydas v. Davis, 533 U.S. 678, 689 (2001). Construing INA § 235(b) to permit indefinite or prolonged detention of a previously recognized asylee without meaningful review would raise serious constitutional concerns.

Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution
Procedural Due Process

28. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

29. Petitioner has a vested liberty interest in his immediate release from immigration custody. Due Process does not permit the government to strip him of that liberty without a hearing before a neutral adjudicator. See Morrissey, 408 U.S. at 487-488.

30. When the government fails to provide a required bond hearing, or when that hearing is rendered a "pro forma"; exercise, **immediate release is the only adequate remedy**. As the Supreme Court held in Zadvydas v. Davis, 533 U.S. 678 (2001), when detention loses its relationship to its underlying purpose—such as when there is no significant likelihood of a lawful hearing or removal in the reasonably foreseeable future—it loses its legal justification.

Second Claim Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution
Substantive Due Process

31. The Due Process Clause of the Fifth Amendment forbids the government from depriving any individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.

32. Due Process does not permit the government to strip Petitioner of liberty without it being tethered to one of the two constitutional bases for civil immigration detention: to mitigate against the risk of flight or to protect the community from danger.

33. Petitioner is not a flight risk where he was afforded asylee status and has previously demonstrated compliance with the immigration laws. His absence from the United States did not automatically strip him of his legally afforded status and also demonstrates his desire to preserve his status and comply with Respondents.

34. Moreover, civil detention that is unrelated to a valid regulatory purpose or excessive in relation to that purpose is punitive, in violation of substantive due process. See Jones, 393 F.3d at 934.

35. In this case the government's arrest of Petitioner is untethered from any valid basis for civil immigration detention, is excessive in relation to any risk that does exist, and is therefore punitive in violation of substantive due process. Petitioner's continued detention is unlawful and violates due process.

36. Federal courts within the Southern District of California have repeatedly granted habeas relief where immigration detention became constitutionally suspect or where DHS failed to provide adequate procedural safeguards.

37. Immediate release is especially appropriate where the government's asserted justification for detention is legally defective. Courts have recognized that detention cannot continue where the underlying basis for removability or detention is itself unlawful or procedurally deficient. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001) (civil detention must remain reasonably related to its purpose); Nadarajah v. Gonzales, 443 F.3d 1069, 1079–80 (9th Cir. 2006) (granting habeas relief where detention exceeded lawful authority).

38. Here, DHS seeks to detain a previously granted asylee without first terminating asylum status through the procedures mandated by statute and regulation. Because Petitioner continues to retain lawful asylee status. And in this case DHS lacks a valid statutory basis to strip him of his derivative asylee status or subject him to continued mandatory detention.

39. Additionally, district courts throughout California have repeatedly ordered release or bond hearings in habeas proceedings where immigration detention lacked **adequate procedural protections** or became unreasonably prolonged. See also Alcantara v. Archambeault, No. 3:20-cv-00756 (S.D. Cal. 2020) (ordering broad habeas-related relief concerning unconstitutional immigration detention condWhere, as here, the petitioner demonstrates substantial constitutional violations, a strong likelihood of success on the merits, and irreparable harm from continued detention, immediate release is an appropriate habeas remedy.)

PRAYER FOR RELIEF

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

1) Assume jurisdiction over this matter;

2) Grant Petitioner a writ of habeas corpus directing the Respondents to **immediately release him from custody**, under reasonable conditions of supervision or in the alternative order an immediate bond hearing;

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

4) Order Respondents to file a response within 3 business days of the filing of this petition;

5) Award attorneys' fees to Petitioner; and

6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 15th day of July 2026.

/s/Lilia Rodriguez
The Law Office of Erika Rodriguez
1450 Frazee Rd., Suite 303
San Diego, CA 92108
Attorney for Petitioner

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

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

Dated this 15th day of July, 2026.

/s/ Lilia Rodriguez
Attorney Name