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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO

Marco Antonio MIRELES GUTIERREZ,
Petitioner,

v.

Todd Blanche, Acting Attorney General of the United States, Department of Justice;

Markwayne Mullin, Secretary of Homeland Security;

Todd Lyons, Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;

Patrick Divver, Field Office Director of the San Diego Immigration and Customs Enforcement Office;

Jorge Velarde, Assistant Field Office Director of the Immigration and Customs Enforcement, Otay Mesa Detention Center;

Christopher J. LaRose; Senior Warden, Otay Mesa Detention Center;

Respondents.

Case No. '26CV4080 GPC DDL

Agency No. [redacted]

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN FEDERAL CUSTODY UNDER 28 U.S.C. § 2241 AND ORDER TO SHOW CAUSE

INTRODUCTION

1. Petitioner, Marco Antonio Mireles Gutierrez [redacted] (hereinafter "Petitioner" or "Mr. Mireles Gutierrez"), alleges Immigration and Customs Enforcement ("ICE") officers unlawfully arrested him and he has experienced prolonged detention in violation of his due process rights. Additionally, he requests this court make an order for Respondents to show cause in three days or alternatively pursuant to timing pursuant to Chief Judge Order No. 144.

JURISDICTION

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

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

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

5. The provisions in 8 U.S.C. §§ 1252(g) and 1252(b)(9) do not strip this Court of jurisdiction. Petitioner is not contesting the commencement or adjudication of removal proceedings against him, nor is he raising an issue with respect to the

execution of removal. Petitioner does challenge his unlawful arrest and prolonged detention. The petition is independent of the removal proceedings and all questions related to the commencement of removal proceedings or any part of the removal process. "[C]laims that are independent of or collateral to the removal process do not fall within the scope of § 1252(b)(9)." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016). Additionally, Section 1252(g) "does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders." *Ibarra-Perez v. United States*, 154 F.4th 989, 997 (9th Cir. 2025). Thus, this Court is not stripped of jurisdiction by Sections 1252(g) and 1252(b)(9).

VENUE

6. Venue is proper because Petitioner is detained at the Otay Mesa Detention Center ("OMDC") in the County of San Diego, which is within the jurisdiction of this District. Further, a substantial part of the events or omissions giving rise to his claims occurred in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

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

must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

8. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

Petitioner

9. Petitioner, Marco Antonio Mireles Gutierrez, is a Mexican national who is in custody at OMDC, located at 7488 Calzada De La Fuente, San Diego, CA 92154. When not in custody, resides in southern California with his longtime U.S. citizen partner, their 4-year-old autistic daughter, and newborn child he has yet to meet. He is in the custody, and under the direct control, of Respondents and their agents.

Respondents

10. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, they have the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"),

which administers the immigration courts and the Board of Immigration Appeals. Respondent U.S. Attorney General is a legal custodian of Petitioner.

11. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the DHS. In this capacity, Respondent Secretary is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement ("ICE"), the component agency responsible for Petitioner's detention and custody. Respondent Secretary is a legal custodian of Petitioner.

12. Respondent Todd Lyons is sued in his official capacity as the Senior Official Performing the Duties of the Director ICE. Respondent Lyons is the legal custodian of Petitioner.

13. Respondent Patrick Divver is sued in his official capacity as the Field Office Director of the San Diego ICE Office. Respondent Divver is a legal custodian of Petitioner and has authority to release him.

14. Respondent Jorge Velarde is sued in his official capacity as Assistant Field Office Director of the ICE at the Otay Mesa Detention Center. Respondent Velarde is a legal custodian of Petitioner and has direct authority to release him.

15. Respondent Christopher J. LaRose is sued in his official capacity as the Senior Warden, Otay Mesa Detention Center. Respondent LaRose is the direct physical custodian of Petitioner and has direct authority to release him.

STATEMENT OF FACTS

16. Mr. Mireles Gutierrez is a 56-year-old Mexican national who has lived in the United States since 1990, after he entered the United States without inspection. Ex A, Declaration. He last entered the United States in 2001, also without inspection, after returning home for a family emergency. *Id.*

17. Soon after arrival, Mr. Mireles Gutierrez claims he made a mistake by driving under the influence of alcohol. Ex. B, Transcript of Bond Hearing. As of this date, any records of such an offense have not been found. This is his only alleged criminal offense.

18. According to conversations with Mr. Mireles Gutierrez and a review of his records, Mr. Mireles Gutierrez built a life in the United States and has many family ties. He has four U.S. citizen children, aged 32, 29, four, and one week old. His older children are from a prior relationship. His four-old daughter and one week old newborn child are from his longtime relationship with U.S. citizen Lynn Rodriguez ("Ms. Rodriguez"). Ms. Rodriguez and Mr. Mireles Gutierrez are engaged to be married. Their oldest daughter is cared for exclusively by Ms. Rodriguez, who does not work, because she must care for their daughter who

suffers severe symptoms related to autism. The family is completely reliant on Mr. Mireles Gutierrez's income obtained by working as a clerk at a market  market.

19. Devastatingly, Mr. Mireles Gutierrez remained in custody while Ms. Rodriguez was scheduled for an emergency cesarian section with their second child on or about July 4, 2026. According to Mr. Mireles Gutierrez's oldest daughter who informed Counsel of the emergency cesarian section birth, Ms. Rodriguez has a long recovery ahead of her and needs her partner, the father of their children, to assist with recovery.

20. Mr. Mireles Gutierrez suffers from diabetes and some time ago required amputation of one of his toes. Ex. A. That amputation requires he wear special shoes. *Id.* He also requires daily or weekly medication for his diabetes condition. Ex. B.

21. On January 10, 2026, Immigration and Customs Enforcement ("ICE") officers conducted what it described as a "vehicle stop for immigration purposes" of Mr. Mireles Gutierrez's vehicle when he drove near Dewey and Irving Avenue in San Diego, California. Ex. A; Ex C, Form I-213. On its face, the vehicle stop appears unjustified. *Id.* The officers did not have any justifiable reason, let alone reasonable suspicion, to stop Mr. Mirelez Gutierrez's vehicle. *Id.* Two

immigration officer stopped his vehicle, asked if he had documents in Spanish. Ex. A. After indicating, in English, that he had a driver license, the other officer pulled him out of the car, placed him in handcuffs, and put him in the back of the officers' vehicle. *Id.*

22. Following this unjustified vehicle stop by ICE officers, the Department of Homeland Security ("DHS") detained Mr. Mireles Gutierrez, held him without a bed for days, removed his special shoe for his amputated toe, and eventually issued to him a Notice to Appear in removal proceedings. Ex. A; *see also* Ex. D, Notice to Appear. DHS has charged him as removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) (presence in the United States without inspection). He has remained detained since. Ex. A.

23. On January 28, 2026, an Immigration Judge declined to find jurisdiction to conduct a bond hearing for Mr. Mirelez Gutierrez on account of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Ex. C, Bond Decisions.

24. On February 12, 2026, following a *habeas corpus* order requiring the court find jurisdiction (Case No. 3:26-cv-00586), the same Immigration Judge denied bond to Mr. Mireles Gutierrez, indicating that he is "[d]eemed to be a significant flight risk, and no amount of bond will mitigate such risk." *Id*; *see also* Ex. B. In an incorrect application of the *Matter of Guerra* factors (*Matter of Guerra*, 24 I&N

Dec. 37 (BIA 2006)), the judge abused her discretion in finding that 35 years of unlawful presence in the United States and working without an employment authorization document to support his family equates to evidence of a flight risk so severe no bond amount would mitigate his risk of flight. This holding was made without due consideration of the significant family ties to the San Diego community. *See generally*, Ex. B; *see also Perez Velasquez v. Bondi, et al.,* No. 3:26-cv-01759-GPC-DDL, ECF No. 11, (S.D. Cal Apr. 11, 2026). In fact, at the start of the hearing, and throughout the hearing, the judge emphasizes multiple times how he has been allegedly "evading immigration officials for 35 years." Ex. B. Such slanted reasoning is an abuse of discretion. *Zaitsev v. Warden of Adelanto ICE Processing Center,* No. 2:26-CV-00454-SPG-AS, 2026 WL 391429, at *10 (C.D. Cal. Feb. 9, 2026) (citing 124 F. 4th at 784). "'[A]buse of discretion' review does not involve 'reweigh[ing] evidence' but rather determining whether the IJ 'applied the correct legal standard.'" *Loba L.M. v. Andrews*, No. 1:25-CV-00611-JLT-SAB, 2026 WL 710307, at *5 (E.D. Cal. Mar. 13, 2026) (quoting *Martinez*, 124 F. 4th at 784) (alterations in original).

25. Petitioner did not appeal the Immigration Judge's denial of bond to the Board of Immigration Appeals ("BIA"). In Counsel's experience, appealing a bond decision is futile. Not only do appeal proceedings routinely exceed 200 days, but also the

BIA has been drastically restructured and decisions are slanted in favor of DHS.[1] *W.T.M. v. Bondi*, No. 2:25-CV-02428-RAJ-BAT, 2026 WL 262583, at *3 (W.D. Wash. Jan. 30, 2026) (finding irreparable injury where BIA review exceeded 200 days and "[d]istrict courts in this Circuit 'routinely' waive prudential exhaustion requirements for noncitizens facing prolonged detention while awaiting administrative appeals." (quoting *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1251 (W.D. Wash. 2025)); *C.A.R.V. v. Wofford*, No. 1:25-CV-01395-JLT-SKO, 2026 WL 241823, at *5 n.7 (E.D. Cal. Jan. 29, 2026) (holding petitioner satisfied irreparable injury *Laing* factor by "demonstrating the irreparable harm that would

[1] *See* Ximena Bustillo and Rahul Mukherjee, *An immigration court few have heard of is quietly shaping policy behind the scene*, NPR (Mar. 20, 2026) (accessible at: https://www.npr.org/2026/03/20/nx-s1-5707535/trump-immigration-detentionappeals-board-deportation) (detailing how (1) the BIA agreed with the Department of Homeland Security—and ruled against the immigrant—in 97% of cases in 2025, with incomplete data placing the number around 90% for 2026 and (2) the BIA—which was comprised of 26 members in annuary 2025 with a nearly even split between Democratic and Republican president appointees spanning from Bush to Biden—has been transformed to a 15-seat board where 13 of the 15 members were appointed by Trump); Jason A. Cade, *Welcome to the Trump Administration's Board of Immigration Appeals. The Immigrant Always Loses*. 136 Yale L.J. Forum __ (forthcoming 2026), (accessible at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6506380) (detailing how the reshaped BIA "foreordains" results for immigrant appellees); Jayashri Srikantiah & Rajan Lukose, Stanford White Paper: *The Board of Immigration Appeals Under the Second Trump Administration: An Empirical Analysis of Grant Rates and DHS Appellate Behavior* (March 23, 2026) (accessible at: https://law.stanford.edu/documents/research-on-bia-decision-making/) (outlining how the success rate of noncitizen appeals has plummeted since January 21, 2026); *See also* Ex. F, Declaration of Zabdi J. Salazar on National Immigration Court Bonds; Ex. G, Declaration of Zabdi J. Salazar on BIA Bond Appeals.

result from wrongful detention, which may result given the lengthy time it take to have an appeal decided."); *Loba L.M. v. Andrews*, No. 1:25-CV-00611-JLT-SAB, 2026 WL 710307, at *5 (E.D. Cal. Mar. 13, 2026) (adopting reasoning of C.A.R.V.); *Garcia v. Hyde*, No. 25-CV-585-JJM-PAS, --- F. Supp. 3d ---, 2025 WL 3466312, at *6 (D.R.I. Dec. 3, 2025) (finding irreparable injury in the form of continued detention where petitioner would likely face several additional months of detention while awaiting BIA review); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 240 (W.D.N.Y. 2019) (waiving exhaustion requirement where "delays inherent in the [BIA review] process ... would result in the very harm that the bond hearing was designed to prevent: prolonged detention without due process during lengthy and backlogged removal proceedings"); *Soriano v. Hernandez,* No. 2:26-CV-00900-DGE, --- F. Supp. 3d ---, 2026 WL 969764, at *4 (W.D. Wash. Apr. 10, 2026) ("Moreover, given the lengthy delays inherent in the current appeals process, the Court finds Petitioner will suffer irreparable injury if he is required to wait for a BIA decision before being permitted to file a habeas claim.").

26. When represented by prior counsel, Mr. Mireles Gutierrez applied for cancellation for removal for certain non-permanent residents pursuant to 8 U.S.C. § 1229b(b)(1).

27. On June 4, 2026, an immigration judge denied Mr. Mireles Gutierrez's application for relief, finding insufficient requisite hardship to his sole qualifying relative, surprising given the autism diagnosis of Mr. Mireles Gutierrez's four-year-old daughter. Notably, Mr. Mireles Gutierrez has an additional qualifying relative newborn child and, when he marries his longtime partner, he will have another qualifying relative sufficient to seek reopening of his removal proceedings.

28. On June 24, 2026, Mr. Mireles Gutierrez, through present counsel's office, timely filed a notice of appeal with the BIA to seek review of the Immigration Judge's denial of cancellation of removal. His appeal of the decision of the immigration judge remains pending.

29. As of today, Petitioner has been in DHS custody for 187 days with no reasonably foreseeable removal to any country given he has a pending review of his order of removal. The Supreme Court in *Zadvydas* made clear that due process is violated where civil detention is no longer related to its purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Far from authorizing indefinite detention, *Zadvydas* establishes a presumption of release once removal is not reasonably foreseeable. Under this well-established Supreme Court precedent, the government's authority to detain noncitizens is limited in the absence of a significant likelihood of

removal in the reasonably foreseeable future. *Id.* Because that likelihood is nonexistent, Petitioner's continued detention is not only unauthorized, but unconstitutional. This Court should grant habeas relief and order his immediate release. In the alternative, Petitioner deserves a bond hearing where the government bears the burden to prove by clear and convincing evidence that Petition is a flight risk or danger to the community.

30. Mr. Mireles has confided in counsel that he does not feel his medical conditions are adequately addressed. Not only is he not permitted to wear his special shoes, but also when he feels the effects of insufficient medication, he fears complaining because then he is placed in segregation. For the sake of the care of his fiancé who is overcoming the effects of a cesarian section, his four-year-old child on the autism spectrum, and his newborn child, Petitioner requests his case be given an expedient decision.

LEGAL FRAMEWORK

31. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas* 533 U.S. at 693). These rights include procedural due process rights.

32. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "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." *Zadvydas v. Davis*, 533 U.S. at 690.

33. The Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures ...." U.S. Const. amend. IV. "The touchstone of the Fourth Amendment is reasonableness ...." *United States v. Knights*, 534 U.S. 112, 118, 122 S.Ct. 587, 151 L.Ed.2d 497 (2001). This is "generally assessed by carefully weighing 'the nature and quality of the intrusion on the individual's Fourth Amendment interests against the importance of the governmental interests alleged to justify the intrusion.' " *County of Los Angeles v. Mendez*, 581 U.S. 420, 427, 137 S.Ct. 1539, 198 L.Ed.2d 52 (2017) (quoting *Tennessee v. Garner*, 471 U.S. 1, 8, 105 S.Ct. 1694, 85 L.Ed.2d 1 (1985)). Overall, reasonableness is an objective inquiry that "is evaluated by looking at the 'totality of the circumstances.' " *Case v. Montana*, 607 U.S. ——, 146 S. Ct. 500, 508, —— L.Ed.2d —— (2026) (first quoting *Barnes v. Felix*, 605 U.S. 73, 80, 145 S.Ct. 1353, 221 L.Ed.2d 751 (2025); and

then quoting *Ohio v. Robinette*, 519 U.S. 33, 39, 117 S.Ct. 417, 136 L.Ed.2d 347 (1996)).

34. The INA provides for mandatory detention of noncitizens subjected to an expedited removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2). Petitioner is detained pursuant to 8 U.S.C. § 1226(a), despite Respondents assertion he is detained pursuant to § 1225(b)(2). Nevertheless, substantive due process prohibits civil detention that is punitive in purpose or in effect, including civil detention that is excessively prolonged in relation to its purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Put otherwise, "due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed"; otherwise, their commitment amounts to punishment. *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (quoting *Jackson*, 406 U.S. at 738).

35. Even when the Constitution permits confinement that is brief, the Supreme Court has recognized that such confinement becomes punitive when it is "excessively prolonged." *United States v. Salerno*, 481 U.S. 739, 474 n.4 (1987). Moreover, as a detained person's time in custody increases, so too does their liberty interest. *See*

Zadvydas, 533 U.S. at 691. "[F]or detention to remain reasonable," greater justification is needed "as the period of confinement grows." *Id.*

36. Accordingly, "at some point, regardless of the risks, due process will require that [a person subject to prolonged civil confinement] be released." *United States. v. Torres*, 995 F.3d 695, 709–10 (9th Cir. 2021) (noting that federal government had conceded this point); see also *United States v. Briggs*, 697 F.3d 98, 103 (2d Cir. 2012) (stating that "for every set of circumstances, due process does impose some limit" on civil confinement).

37. "There has been a dearth of guidance regarding the point at which an immigration detainee's continued mandatory detention becomes unconstitutional," and thus challenges to prolonged immigration detention remain. *Abduraimov v. Andrews*, 2025 U.S. Dist. LEXIS, *9 (E.D. Cal. Oct. 14, 2025) (citing *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1203 (9th Cir. 2002)). The Ninth Circuit has expressed "grave doubts that any statute that allows for arbitrary prolonged detention without any due process is constitutional..." *Rodriguez v. Marin*, 909 F.3d 252, 255 (9th Cir. 2018).

38. The procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards. The Ninth Circuit has "regularly applied *Mathews* to due process

challenges to removal proceedings." *Rodriguez Diaz*, 53 F.4th at 1193 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Under the *Mathews* test, this Court must weigh: (1) the private interested affected; (2) the risk of erroneous deprivation and probable value of procedural safeguards; and (3) the government's interest. 424 U.S. at 335.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fourth Amendment and 8 C.F.R. § 287.8(b)(2): Unlawful Detention Without Reasonable Suspicion

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

40. Respondents detained Petitioner without reasonable suspicion. *See* Ex. C. The government did not even purport to have any suspicion related to an immigration purpose sufficient for a stop or arrest following the stop. *See* Ex. A and C. It is unreasonable for DHS to have arrested and detained him at an unlawful stop and held him without access to a bed for days, after removing his medically necessary shoes.

41. Respondents' detention of Petitioner violated the Fourth Amendment and the regulations at 8 C.F.R. § 287.8(b)(2).

COUNT TWO

Violation of Fourth Amendment and 8 C.F.R. § 287.8(c)(2): Unlawful Arrest Without Probable Cause

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

43. Respondents arrested Petitioner without probable cause.

44. The government did not even purport to have any probable cause related to an immigration purpose sufficient for a stop or arrest following the stop. *See* Ex. A and C. It is unreasonable for DHS to have arrested and detained him at an unlawful stop and held him without access to a bed for days, after removing his medically necessary shoes.

45. Respondents' arrest of Petitioner violated the Fourth Amendment and the regulations at 8 C.F.R. § 287.8(c)(2).

COUNT THREE
Violation of Fifth Amendment – Procedural Due Process

46. Petitioner incorporates by reference the factual allegations set forth in the preceding paragraphs.

47. Petitioner has a fundamental private interest to be free from detention. *See Abduraimov*, U.S. Dist. LEXIS 202711, at *17 (citing *Zadvydas*, 533 U.S. at 690)); *see also Hernandez*, 872 F.3d at 993 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)) and *Rodriguez Diaz*, 53 F.4th at 1207 (quoting *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011)).

48. Because Petitioner has received no procedural protections and the statute under which DHS alleges he is detained denies him procedural protections, the risk of erroneous deprivation of his liberty interest is high. *See Abduraimov*, 2025 U.S. Dist. LEXIS 202711, at *19; *see also Garcia v. Mattos*, 2026 U.S. Dist. LEXIS 6874, at *12 (D. Nev. Jan. 14, 2026) ("The risk of erroneous deprivation is extraordinarily high where ICE and DHS agency officials have sole, unguided, and unreviewable discretion to detain Petitioner without any individualized showing of why his detention is warranted, nor any process for Petitioner to challenge the exercise of that discretion.").

49. Finally, the government has no legitimate interest in Petitioner's prolonged detention without a bond hearing. *See Abduraimov*, 2025 U.S. Dist. LEXIS 202711, at *20; *see also Zagal-Alcaraz v. ICE Field Office Dir.*, 2020 U.S. Dist. LEXIS 64994, at *18-19 (D. Or. Mar. 25, 2020) (clarifying that "[t]he government interest at stake here is not the continued detention of Petitioner, but the government's ability to detain him without a bond hearing) (citation omitted).

50. For these reasons, Petitioner's arrest violates the Fourth Amendment and his prolonged detention violates the Due Process Clause of the Fifth Amendment. Petitioner should be immediately released.

PRAYER FOR RELIEF

1. Assume jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside of the Southern District of California while this petition is pending;
3. Declare that Petitioner's arrest was unlawful and in violation of the Fourth Amendment;
4. Declare that Petitioner's ongoing prolonged detention is unlawful and violates the Due Process Clause of the Fifth Amendment because he was not provided a Constitutionally-adequate bond hearing on February 12, 2026;
5. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody. Alternatively, order Respondents to provide him a bond hearing before a neutral and fair arbiter within seven (7) days where the government must prove by clear and convincing evidence that Petitioner is a flight risk or danger to the community;
6. Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Respectfully submitted,

Dated: July 15, 2026

/s/ Leah L. Chavarria
Leah L. Chavarria
Counsel for Petitioner

LIST OF EXHIBITS

EXHIBIT A:	Declaration of Petitioner
EXHIBIT B:	Transcript of Bond Proceeding
EXHIBIT C:	Form I-213
EXHIBIT D:	Notice to Appear
EXHIBIT E:	Bond Orders
EXHIBIT F:	Declaration of Zabdi J. Salazar on National Immigration Court Bonds
EXHIBIT G:	Declaration of Zabdi J. Salazar on BIA Bond Appeals

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

I represent Petitioner, Mr. Mireles Gutierrez, and submit this verification on his behalf. I hereby verify under penalty of perjury under the laws of the United States and the State of California 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/ Leah L. Chavarria
Leah L. Chavarria
Counsel for Petitioner