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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Juan Santana Mendoza
Agency No. [redacted]

Petitioner,

v.

Christopher J. LaRose, Warden, Otay Mesa Detention Center; Gregory Archambault, San Diego Field Office Director, U.S. Immigration and Customs Enforcement; Markwayne Mullin, Secretary of Homeland Security; and Todd Blanche, Acting Attorney General of the United States,

Respondents.

'26CV4274 JO JLB

Case No.: [Case No.]

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

INTRODUCTION

1. Petitioner Juan Santana Mendoza brings this petition to challenge his unlawful re-detention by U.S. Immigration and Customs Enforcement ("ICE"). Petitioner had been previously released on bond over six years in 2019, and there has been no change in circumstances that would merit a re-detention without a hearing. *Exhibit 1* (2019 Bond Order). Petitioner is presently detained at the Otay Mesa Detention Center in San Diego, California, within this judicial district.
2. On October 30, 2019, an Immigration Judge ordered Mr. Santana Mendoza released on a $6,000 bond, subject to a single condition: that he not drive without a valid driver's license. Neither party appealed that custody decision.
3. Petitioner posted bond, was released, and on September 28, 2020. Subsequently, he was issued a Social Security card and an Employment Authorization Document through August 16, 2029, *Exhibit 2*, evidencing the government's authorization for him to live and work in the United States while his removal proceedings continued.
4. Mr. Santana Mendoza appeared at every hearing in his removal proceedings for more than six years, including his final merits hearings on his application for cancellation of removal in November 2025 and January 2026.
5. On January 30, 2026, an Immigration Judge denied Petitioner's application for cancellation of removal and ordered him removed. He timely appealed that decision to the Board of Immigration Appeals ("BIA"), which received his appeal on February 18, 2026. *Exhibit 3*. That appeal remains pending, and the removal order is therefore not administratively final.
6. Petitioner did not miss any immigration-related proceeding ICE and never received any notice from ICE or U.S. Citizenship and Immigration Services suggesting that his compliance, his

eligibility for continued release, or the government's assessment of his flight risk or dangerousness had changed in any way.

7. Nevertheless, ICE took Petitioner into custody without explanation and without any individualized showing of changed circumstances, violation of release conditions, danger to the community, or risk of flight. Petitioner was initially held in Jacksonville, Florida, and was then transferred across the country to the Otay Mesa Detention Center in San Diego, California.

8. On or about July 16, 2026, an Immigration Judge denied Petitioner's request for a custody redetermination, checking a box finding him subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV), 8 U.S.C. § 1225(b)(1)(B)(iii)(IV), and citing *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). *Exhibit 4*.

9. Both determinations are wrong. First, § 235(b)(1) governs expedited removal. But he was never in expedited removal proceedings. Petitioner instead was afforded full removal proceedings under INA § 240, 8 U.S.C. § 1229a, including a merits hearing on an application for cancellation of removal, a form of relief categorically unavailable to noncitizens in expedited removal.

10. Second, because Petitioner's BIA appeal remains pending, his removal order is not administratively final, and the post-order removal period under 8 U.S.C. § 1231 has not begun. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008); *Johnson v. Guzman-Chavez*, 594 U.S. 523, 533–35 (2021). Given the procedural posture, Petitioner would be detained under 8 U.S.C. § 1226(a) the discretionary detention provision that governs noncitizens in the interior of the country during the pendency of removal proceedings so heis entitled to an individualized custody determination.

PARTIES

11. Petitioner **Juan Santana Mendoza** is a national and citizen of Mexico. entered without inspection and was later placed in removal proceedings under 8 U.S.C. § 1229a. On October 30, 2019, Petitioner was released on a $6,000 immigration bond, subject only to the condition that he not drive without a valid driver's license.

12. Respondent **Christopher J. LaRose, Warden, Otay Mesa Detention Center,** is the individual responsible for the day-to-day operations of the Otay Mesa Detention Center and is Petitioner's immediate custodian. He is named in his official capacity.

13. Respondent **Gregory Archambault** is the San Diego Field Office Director of U.S. Immigration and Customs Enforcement and exercises legal authority over Petitioner's detention. He is named in his official capacity.

14. Respondent **Markwayne Mullin** is the Secretary of the U.S. Department of Homeland Security. He is named in his official capacity.

15. Respondent **Todd Blanche** is the Acting Attorney General of the United States. He is named in his official capacity.

JURISDICTION AND VENUE

16. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which authorizes federal district courts to grant writs of habeas corpus to persons held in custody in violation of the Constitution or laws of the United States. *Zadvydas v. Davis,* 533 U.S. 678, 687 (2001); *INS v. St. Cyr,* 533 U.S. 289, 305 (2001).

17. Neither 8 U.S.C. § 1252(g) nor 8 U.S.C. § 1252(b)(9) strips this Court of jurisdiction. Petitioner does not challenge DHS's authority to commence or adjudicate removal proceedings against him. He challenges only (a) his continued detention without a bond hearing, and (b) DHS's relitigation,

in a second removal proceeding, of a jurisdictional question already finally decided against it — claims collateral to the removal process. *J.E.F.M. v. Lynch,* 837 F.3d 1026, 1032 (9th Cir. 2016).

18. Venue is proper in this district under 28 U.S.C. § 2241 because Petitioner is physically detained within the Southern District of California.

FACTUAL ALLEGATIONS

19. Petitioner is a native and citizen of Mexico who has resided continuously in the United States since 2001. He owns and operates a concrete business operating for over ten years, and he owns his home outright.

20. Petitioner has four United States citizen children.

21. Petitioner has one prior arrest, in April 1993 in Putnam County, Florida, for carrying a concealed firearm. *Exhibit 6.* The narrative alleges that a firearm was concealed in a vehicle and provides no further information about how, if at all, Mr. Santana Mendoza carried any weapon. On June 30, 1993, the State Attorney's Office filed an Announcement of No Information, declining to prosecute on the ground that there was insufficient evidence to prove the offense. *Id.* Notably, the 2019 Immigration Judge who granted Petitioner bond was aware of Petitioner's full record and nonetheless found a $6,000 bond, conditioned only on possessing a valid driver's license, sufficient to address any concern regarding flight risk or danger to the community.

22. At no point after his release on bond did Petitioner receive any notice, interview request, or communication from ICE or USCIS suggesting a change in his circumstances, his compliance, or the government's assessment of him.

23. Approximately one week before his arrest by ICE this year, Petitioner was stopped by local law enforcement on an alleged traffic violation relating to the cement machine in the back of his truck, but was not charged or arrested. He was stopped again for allegedly driving too slow. ICE took

him into custody. ICE provided no explanation for the arrest, and Respondents have never identified any violation of Petitioner's release conditions, any new criminal conduct, or any other changed circumstance justifying his re-detention.

24. On July 16, 2026, an immigration judge denied his bond request. ¶ 8, *Exhibit 4.*

GROUNDS FOR RELIEF

CLAIM ONE:

Violation of the Fifth Amendment Due Process Clause — Unlawful Re-Detention Without a Hearing or Showing of Changed Circumstances

25. Petitioner realleges and incorporates by reference all of the foregoing paragraphs.

26. "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*, 533 U.S. at 690. The government's decision to release Petitioner on bond, and its representations that he could continue working and would remain free from removal pending appeal, constituted an implicit assurance that he would not be re-detained absent a violation of his release conditions or a showing of changed circumstances. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

27.

28. Petitioner never violated any condition of his release. He appeared at every hearing and never received a notice of any change in his circumstances. Following his release, the government issued Petitioner a Social Security card and, later, a valid Employment Authorization Document effective through August 16, 2029. These are affirmative acts that confirm the government's own contemporaneous assessment that he was authorized to remain and work in the United States. He has lived in the United States for years, built a business, and owns his home. These are factors facts that further strengthen his protected liberty interest in remaining free. *See Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) (noting that years of government-permitted

residence in the community strengthens a petitioner's liberty interest); *Ortega v. Bonnar*, 415 F.Supp.3d 963, 969-970 (N.D.Cal., 2019)(same).

29. Respondents' unexplained re-detention of Petitioner, absent any individualized finding that he violated his release or that circumstances bearing on flight risk or dangerousness had changed, violates the constitutional guarantee that civil detention be reasonably related to a legitimate, non-punitive purpose. *See Zadvydas*, 533 U.S. at 690.

30. As courts in this district have released individuals who had been previously released by DHS, Mr. Santana Mendoza requests immediate release. *C.f., Lopez v. Divver*, 2026 WL 2059094 (July 15, 2026 S.D.Cal., 2026) (ordering Petitioner's immediate release subject to the conditions of his preexisting parole); *Acosta v. Mullin*, 2026 WL 2056911 (S.D.Cal., July 15, 2026) (granting immediate release when an immigration judge hah previously determined Petitioner to not be a danger to the community or a flight risk); *Carrillo v. Mullin*, 2026 WL 1990768 (S.D.Cal., 2026, July 9, 2026) (ordering immediate release when petitioner had been previously released from custody); *Aras v. Blanche*, 2026 WL 1454140 (S.D.Cal., 2026 May 22, 2026) (same).

CLAIM TWO:

Violation of the INA — Misapplication of Mandatory Detention Authority

31. Petitioner realleges and incorporates by reference all of the foregoing paragraphs.

32. Section 235(b)(1) of the INA, 8 U.S.C. § 1225(b)(1), and its mandatory detention provisions govern noncitizens subject to expedited removal. Petitioner was never placed in expedited removal. He was placed in full removal proceedings under 8 U.S.C. § 1229a, litigated a merits application for cancellation of removal which is relief unavailable to anyone in expedited removal. He received a decision from an Immigration Judge on that application. The new

Immigration Judge's reliance on § 235(b)(1)(B)(iii)(IV) to deny Petitioner a custody hearing is contrary to the plain terms of the statute and to the procedural history of Petitioner's own case.

33. Nor is Petitioner in the post-order detention regime under 8 U.S.C. § 1231. Because Petitioner's appeal of the January 2026 removal order remains pending before the BIA, that order is not administratively final, and the ninety-day removal period described in § 1231(a)(1) has not begun. *See* 8 U.S.C. § 1231(a)(1)(B); *Johnson v. Guzman-Chavez*, 594 U.S. 523, 533–35 (2021); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008).

34. Petitioner is therefore detained, at most, under the discretionary authority of 8 U.S.C. § 1226(a), which governs noncitizens in the interior of the United States during the pendency of removal proceedings and entitles them to an individualized custody determination. Numerous courts throughout the Ninth Circuit have rejected the government's position that § 1225(b)(2) or related mandatory-detention provisions apply to noncitizens, like Petitioner, who are apprehended while living in the interior of the country rather than at the border seeking admission. *See, e.g., Hortua v. Chestnut*, No. 1:25-CV-01670-TLN-JDP, 2025 WL 3525916, at *3 (E.D. Cal. Dec. 9, 2025); *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC, 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12, 2025) (collecting cases).

CLAIM THREE:

Violation of the Fifth Amendment Due Process Clause — Denial of a Constitutionally Adequate Custody Hearing

35. Petitioner realleges and incorporates by reference all of the foregoing paragraphs.

36. Courts evaluate procedural due process claims under the three-factor test of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976): (1) the private interest affected; (2) the risk of erroneous deprivation through the procedures used and the value of additional safeguards; and (3) the government's interest, including administrative burden.

37. Petitioner's private interest in his liberty is substantial. He has been detained without any individualized assessment of flight risk or dangerousness, despite years of full compliance with every condition of his prior release.

38. The risk of erroneous deprivation is considerable. Respondents have identified no danger, no flight risk, and no violation of release conditions. Rather, an erroneous categorical that Petitioner falls within a mandatory detention provision that does not apply to him.

39. The government's interest in continuing to detain Petitioner without a hearing is minimal. An individualized custody hearing is a routine administrative process, and Respondents identify no legitimate interest served by withholding one here.

40. Application of the *Mathews* factors confirms that Petitioner, at the very lease, is entitled to notice and a hearing before a neutral decisionmaker at which the government bears the burden of justifying his continued detention. But as other cases in similar postures have been treated in this district, Petitioner requests immediate release. *C.f., Etoom v. Larose,* 2026 WL 1229591 (S.D.Cal., 2026) (immediate release on preexisting conditions).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this Petition pursuant to 28 U.S.C. § 2241;

B. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from immigration detention on the same conditions he was previously released;

C. In the alternative, issue a writ of habeas corpus directing Respondents to provide Petitioner a bond hearing before a neutral Immigration Judge within seven days, at which the government bears the burden of justifying Petitioner's continued detention by clear and convincing evidence;

D. Declare that Petitioner's detention without a bond hearing violates 8 U.S.C. § 1226(a) and the Fifth Amendment to the United States Constitution;

E. Award Petitioner reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and

F. Award Petitioner his costs and any other relief this Court deems just and proper.

Respectfully submitted,

Date: July 27, 2026

s/ Vanessa Molina
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Counsel for Petitioner

VERIFICATION

I, Vanessa Molina, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that to the best of my knowledge and belief, the foregoing facts are true and correct based upon information gathered from interviewing Petitioner's family, immigration attorney, and review of part of his immigration file.

Respectfully submitted,

Dated: July 27, 2026

s/ Vanessa Molina
Vanessa Molina
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Counsel for Petitioner