Alexandra Miron
D'Uva & Miron Law Office
17 Academy Street, Suite 1101
Newark, New Jersey 07102
862-230-2311
alexandra@duvalaw.com
Counsel for Petitioner

Mariana L. Hanna
Law Offices of Mariana L. Hanna
402 West Broadway, Suite 1730
San Diego, CA 92101
619-234-3635
mlhlawoffice@yahoo.com
Counsel for Petitioner

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

HOMERO CENTURION SANCHEZ

Petitioner,

v.

ACTING FIELD OFFICE DIRECTOR of the San Diego Field Office, U.S. Immigration and Customs Enforcement, in his/her official capacity;
WARDEN of Imperial Regional Detention Facility in his/her official capacity;
MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, in his official capacity;
DAVID J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement, in his official capacity;
TODD BLANCHE, Acting Attorney General of the United States, in his official capacity;

Respondents.

Case No.: '26CV4353 RBM DEB

PETITION FOR WRIT OF HABEAS CORPUS

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

I. INTRODUCTION

1. The Petitioner is a 44-year-old male native and citizen of Peru, who is currently being detained at the Imperial Regional Detention Facility in Calexico, CA. He was initially detained by Immigration and Customs Enforcement ("ICE") in Clifton, NJ on July 18, 2026, but was subsequently transferred to the Imperial Regional Detention Facility.
2. Petitioner has been living in the United States since his initial entry without admission or inspection in about 2006. At that time, Petitioner was not apprehended by immigration officials.
3. Following his ICE arrest, Petitioner was placed in removal proceedings, which are now pending before the Imperial Immigration Court. There has been no change in Petitioner's circumstances as to warrant Petitioner's detention. Petitioner does not have an order of removal or a criminal record.
4. Petitioner hereby petitions this Court to declare his arrest and/or detention unlawful, stay his removal or transfer outside this District, and order his immediate release. In the alternative, Petitioner seeks an order requiring Respondents to provide him with an individualized custody hearing before the Immigration Court that comports with due process.

5. Petitioner's continued detention without access to an individualized custody determination deprives him of the custody procedures required by statute and due process.

6. ICE has detained the Petitioner unlawfully pursuant to Section 235 of the INA because Petitioner is not an "an arriving alien" pursuant to 8 C.F.R. §§1.2, 1001.1(q), 8 U.S.C §1101(a)13(A), but an alien "at-large" in the United States and has been so for about twenty years. He is therefore entitled to a determination under INA §236, of a reasonable bond, release on recognizance set forth in the statute, and an order that this detention under INA 235 is unlawful.

II. JURISDICTION

7. This action arises under the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. §§ 1101 et seq. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241 and federal-question jurisdiction pursuant to 28 U.S.C. § 1331 because Petitioner is in federal immigration custody and challenges the legality of that custody under the Constitution and laws of the United States. Petitioner is detained at the Imperial Regional Detention Facility in Calexico, CA, under the authority of the United States.

III. VENUE

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 2241 and 1391(e) because Petitioner is detained at the Imperial Regional Detention Facility in Calexico, CA, within the Southern District of California.

IV. PARTIES

9. Petitioner is a 44-year-old male, native and citizen of Peru, who has been detained in the custody of ICE since about July 18, 2026. He seeks issuance of a writ of habeas corpus.

10. Respondent Acting Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement, is sued in his or her official capacity. In this capacity, he or she exercises legal authority over Petitioner's immigration custody.

11. Respondent Warden is sued in his official capacity as the Warden of the Imperial Regional Detention Facility in Calexico, CA, and in this capacity, he is the Petitioner's actual physical custodian.

12. Respondent Markwayne Mullin is sued in his official capacity as Secretary of the Department of Homeland Security, the agency in charge of administering and enforcing the immigration laws and is the Petitioner's legal custodian.

13. Respondent, David J. Venturella, Senior Official Performing the Duties of the Director, is sued in his official capacity as the Acting Director of the

United States Immigration and Customs Enforcement (ICE) the department within the Department of Homeland Security and in this capacity, he is responsible for administering and enforcing the immigration laws and is Petitioner's legal custodian.

14. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States. In this capacity she is responsible for administering and enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is Petitioner's legal custodian.

V. LEGAL BACKGROUND

15. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.

16. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a),1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

17. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

18. Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

19. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

20. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

21. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

22. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were

entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

23. Respondents' new policy turns this well-established understanding on its heads and violates the statutory scheme. In July 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

24. A precedential Board of Immigration Appeals decision confirms that EOIR is taking this same position that noncitizens who entered the United States without admission or parole are ineligible for immigration judge bond hearings. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

25. This is now a widespread position applying across the United States. This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

26. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

27. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

28. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

29. As this Court held in prior decisions, individuals who have been arrested in the interior of the United States after living here for several years are subject to Section 1226 detention and immediate release;[1] *see,* for example, *Faizyan*

[1] *See*, e.g., Lopez v. Warden, Otay Mesa Det. Ctr., No. 25-CV-2527-RSH-SBC, 2025 WL 3005346 (S.D. Cal. Oct. 27, 2025); Beltran v. Noem, No. 25CV2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); Calel v. LaRose, No. 3:25-CV-02883-GPC-JLB, 2025 WL 3171898 (S.D. Cal. Nov. 13, 2025); Faizyan v. Casey, No. 3:25-CV-02884-RBM-JLB, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025); Sanchez v. Noem, No. 25-CV-3068 JLS (MMP), 2025 WL 3214987 (S.D. Cal. Nov. 18, 2025); Ruiz v. LaRose, No. 25-CV-02714-BAS-SBC, 2025 WL 3214975 (S.D. Cal. Nov. 18, 2025). The government has continued this practice even after Bautista v. Noem, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025), which declared as unlawful the DHS policy of classifying noncitizens arrested in the United States as subject to § 1225(b)(2).

v. Casey, No. 3:25-cv-02884-RBM-JLB, ECF No. 1, at 15 (S.D. Cal. Nov. 17, 2025) (holding that due process requires release—not a post-detention bond hearing—because once detained, the petitioner has already suffered the injury at issue) (citing *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021).

30. Petitioner's circumstances are materially indistinguishable. Petitioner entered the United States around 2006 and has remained continuously present in the country for over twenty years. At the time of his arrest on July 18, 2026, Petitioner was not arriving at a port of entry, was not seeking admission, was not encountered during an attempted entry, and was not apprehended shortly after crossing the border. Rather, he was living and working within the interior of the United States and was inexplicably detained by ICE in New Jersey.

31. Respondents now seek to characterize Petitioner as an applicant for admission subject to mandatory detention despite the fact that he has lived in the United States for over twenty years.

32. Such an interpretation is inconsistent with the structure and text of the Immigration and Nationality Act. No. 25-3141 (2d Cir. 2026). If accepted, Respondents' position would permit the Government to subject virtually every noncitizen who originally entered without inspection—regardless of whether the entry occurred ten, twenty, or thirty years earlier—to mandatory detention

without bond whenever DHS elected to initiate removal proceedings. Nothing in the INA authorizes such a result.

33. Accordingly, Petitioner's detention is governed by INA § 236(a), not INA § 235, and Respondents are unlawfully depriving Petitioner of the custody procedures Congress provided, including the opportunity to seek release before an Immigration Judge. *Id.*

34. Because Respondents are detaining Petitioner unlawfully under INA 1235, the Court should accordingly order that Respondent DHS must release Petitioner immediately.

VI. FACTS

35. Petitioner is a 44-year-old native and citizen of Peru, who entered the United States without inspection in about 2006 and has resided continuously in the country since that time. At the time of his entry into the United States, Petitioner was not apprehended by immigration officials.

36. On July 18, 2026, Petitioner was detained by ICE while on his way to work. There was no change in Petitioner's circumstances as to warrant his detention. Petitioner does not have an order of removal or a criminal record.

37. The law governing mandatory or discretionary detention as it applies to Petitioner under Sections 1225 and 1226 respectively has not changed since his entry in 2006. Petitioner has lived within the interior of the United States

for over twenty years and is not subject to mandatory custody under Section 1225.

38. Absent judicial review of his custody claim, Petitioner will suffer irreparable injury by being deprived of his physical liberty. He seeks the only avenue of judicial review available to him, habeas review.

VII. CLAIMS FOR RELIEF

COUNT I

39. Respondents are detaining Petitioner pursuant to INA § 235 and denying him access to the custody procedures available under INA § 236(a). Such detention exceeds Respondents' statutory authority because Petitioner is not an arriving alien, is not presently seeking admission, and was not apprehended in connection with a recent entry into the United States. As previously recognized by this Court, because INA § 236(a) governs Petitioner's custody, Respondents' continued detention under INA § 235 is ultra vires, contrary to law, and subject to correction through habeas corpus under 28 U.S.C. § 2241.

40. As a result of Respondents' unlawful interpretation of the INA, Petitioner remains incarcerated without access to the custody determination Congress authorized. Petitioner therefore requests that this Court declare that his detention is governed by INA § 236(a), order his immediate release, or

alternatively order Respondents to provide a prompt custody redetermination hearing before an Immigration Judge.

COUNT II

41. The Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. Physical detention constitutes a severe deprivation of liberty and therefore may occur only pursuant to constitutionally adequate procedures and lawful governmental authority.

42. Petitioner has resided continuously in the United States since 2006. At the time of his arrest on July 18, 2026, he was living in the interior of the United States, was employed, and built community and family ties. He has a 10-year old United States citizen daughter who is in his sole care and custody. He is not seeking admission to the United States, was not encountered at or near a port of entry and was not apprehended shortly after entry.

43. Despite these circumstances, Respondents have now classified Petitioner as subject to mandatory detention under INA § 235 and have denied him any opportunity to seek release before an Immigration Judge. By denying Petitioner access to the custody procedures established under INA § 236(a), including the opportunity to seek release on bond or recognizance before a neutral adjudicator, Respondents have deprived Petitioner of liberty without constitutionally adequate process.

44. Respondents' interpretation effectively creates a regime in which a noncitizen who has resided in the United States for nearly a decade may be detained indefinitely without any individualized determination regarding danger, flight risk, family ties, community ties, employment history, immigration history, likelihood of relief, or ability to comply with future proceedings.

45. Such detention bears no reasonable relationship to the purposes of civil immigration detention and constitutes arbitrary governmental action in violation of substantive and procedural due process.

46. At a minimum, due process requires an individualized custody determination before a neutral decisionmaker at which the government bears the burden of demonstrating that continued detention is justified by concerns relating to danger or flight risk. Respondents have provided no such process.

47. As a direct and proximate result of Respondents' actions, Petitioner remains unlawfully deprived of his physical liberty in violation of the Fifth Amendment. Accordingly, Petitioner is entitled to habeas relief, including immediate release or, alternatively, an individualized custody hearing that complies with constitutional due process requirements.

VIII. PRAYER FOR RELIEF

48. Assume jurisdiction over this action and issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241;

49. Declare that Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2) is unlawful.

50. Enjoin Respondents from transferring Petitioner outside the Southern District of California pending resolution of this Petition, so as to preserve this Court's jurisdiction and Petitioner's access to counsel;

51. Direct Respondents to show cause, within three (3) days of service of the Petition and any order issued by this Court, why the writ should not be granted.

52. Order Respondents to immediately release Petitioner from custody under the same conditions that existed prior to his detention, including but not limited to release without the imposition of additional conditions, as Petitioner's detention was unlawful *ab initio*;

53. In the alternative, if the Court concludes that detention may lawfully proceed under 8 U.S.C. § 1226(a), order Respondents to provide Petitioner with a prompt bond hearing before an Immigration Judge;

54. Enjoin Respondents from re-arresting or otherwise detaining Petitioner absent a warrant and unless Petitioner commits a criminal offense, fails to attend a properly noticed immigration hearing, or is subject to a final removal order pursuant to 8 U.S.C. § 1231;

55. Order that any future detention of Petitioner must comply with all statutory and constitutional requirements, including the identification of a lawful statutory basis for detention and the provision of adequate procedural and substantive due process;

56. 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

57. Grant such other and further relief as the Court deems just and proper

Dated: July 29, 2026

Respectfully Submitted,

/s/ Alexandra Miron
Alexandra Miron
D'Uva & Miron Law Office
17 Academy Street, Suite 1101
Newark, New Jersey 07102
862-230-2311
alexandra@duvalaw.com
Counsel for Petitioner

/s/Mariana L. Hanna
Mariana L. Hanna
Law Offices of Mariana L. Hanna
402 West Broadway, Suite 1730
San Diego, CA 92101
619-234-3635
mlhlawoffice@yahoo.com
Counsel for Petitioner

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

I, Alexandra Miron and Mariana L. Hanna counsels of record for Petitioner **HOMERO CENTURION SANCHEZ**, are familiar with the facts of this matter and submit this verification on his behalf. We hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of our knowledge, information, and belief.

Dated: July 29, 2026.

/s/ Alexandra Miron
Alexandra Miron
D'Uva & Miron Law Office
17 Academy Street, Suite 1101
Newark, New Jersey 07102
862-230-2311

/s/ Mariana L. Hanna
Mariana L. Hanna
Law Offices of Mariana L. Hanna
402 West Broadway, Suite 1730
San Diego, CA 92101
619-234-3635
mlhlawoffice@yahoo.com
BAR 230127
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of July, 2026, a copy of the foregoing was filed electronically with the Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Respectfully submitted,

/s/ Alexandra Miron
Alexandra Miron
D'Uva & Miron Law Office
17 Academy Street, Suite 1101
Newark, New Jersey 07102
862-230-2311

/s/ Mariana L. Hanna
Mariana L. Hanna
Law Offices of Mariana L. Hanna
402 West Broadway, Suite 1730
San Diego, CA 92101
619-234-3635
mlhlawoffice@yahoo.com
BAR 230127
Counsel for Petitioner