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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MAYNOR ESTUARDO RODRIGUEZ-GARCIA (A-248-002-064)
Petitioner,

vs.

MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security;
TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement;
PATRICK DIVVER, San Diego Field Office Director, ICE;
WARDEN, IMPERIAL REGIONAL DETENTION FACILITY, and
TODD BLANCHE, Attorney General of the United States
Respondents.

Case No. '26CV4378 AGS DDL

Agency No. A-[redacted]

PETITION FOR WRIT OF HABEAS CORPUS and MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Expedited Hearing Requested

PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT

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PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Maynor Estuardo Rodriguez-Garcia, by and through his undersigned counsel, petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to order his immediate release from unconstitutional detention or, in the alternative, to order a constitutionally compliant bond hearing within seven (7) days under strict procedural, financial proportionality, Fourth Amendment, Eighth Amendment, and Due Process mandates.

I. INTRODUCTION

1. Petitioner **Maynor Estuardo Rodriguez-Garcia** (A-Number [redacted]) is a native and citizen of Guatemala currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Imperial Regional Detention Facility in Calexico, California.
2. Petitioner has continuously resided in the interior of the United States since 2007 and is the father and primary provider for a two-year-old United States citizen child.
3. Petitioner was stopped while driving on his way to work and subsequently detained by immigration authorities without probable cause demonstrating flight risk or dangerousness, and without any warrant or pre-detention judicial authorization.
4. The Department of Homeland Security ("DHS") issued a Notice to Appear charging Petitioner under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1182(a)(6)(A)(i).
5. Despite Petitioner's nearly 19 years of continuous residence in the interior of the United States, DHS erroneously treats Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b), deriving an executive policy that deprives the Immigration Judge ("IJ") of administrative jurisdiction to hold a custody redetermination hearing absent federal court intervention.

6. Under *Esquivel Pacheco v. LaRose*, 818 F. Supp. 3d 1168 (S.D. Cal. 2026), 8 U.S.C. §§ 1252(g), (a)(5), and (b)(9) do not bar habeas jurisdiction, and Petitioner is governed by the discretionary detention framework of 8 U.S.C. § 1226, not § 1225(b)(2), because he was already residing in the interior of the United States at the time of his arrest.
7. Continuing to deprive Petitioner of physical liberty without probable cause establishing a necessity for confinement, and without providing either a pre-detention or post-detention hearing before a neutral decisionmaker, violates the Fourth Amendment, the Fifth Amendment (Procedural and Substantive Due Process), the Eighth Amendment, and the Suspension Clause. See *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017); *Gerstein v. Pugh*, 420 U.S. 103 (1975).
8. Petitioner is entitled to immediate release. In the alternative, if a bond hearing is ordered, it must occur within seven (7) days under strict constitutional directives regarding the clear and convincing burden of proof, financial proportionality, non-monetary release conditions, and Eighth Amendment protections against excessive bail and arbitrary punishment.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), and Article I, Section 9, Clause 2 of the United States Constitution (Suspension Clause).
10. As established in *Esquivel Pacheco v. LaRose*, 818 F. Supp. 3d 1168, 1174-75 (S.D. Cal. 2026), 8 U.S.C. §§ 1252(g), (a)(5), and (b)(9) do not bar this Court from exercising habeas jurisdiction over a collateral challenge to the constitutionality and legality of immigration detention.
11. Venue is proper in the United States District Court for the Southern District of California under 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(e) because Petitioner is

physically incarcerated within this judicial district at the Imperial Regional Detention Facility in Calexico, CA 92231.

III. PARTIES

12. **Petitioner Maynor Estuardo Rodriguez-Garcia** (A[redacted]) is a native and citizen of Guatemala currently held in ICE custody.
13. **Respondent Warden, Imperial Regional Detention Facility** is the immediate custodian of Petitioner at the Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, CA 92231.
14. **Respondent Patrick Divver** is the San Diego Field Office Director for ICE, exercising legal control over noncitizens detained within this district.
15. **Respondent Todd Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement.
16. **Respondent Markwayne Mullin** is the Secretary of the U.S. Department of Homeland Security.
17. **Respondent Todd Blanche** is the Attorney General of the United States.

IV. STATEMENT OF FACTS

18. Petitioner Maynor Estuardo Rodriguez-Garcia was born on [redacted] and is a native and citizen of Guatemala.
19. Petitioner entered the United States and has maintained continuous physical residence in the interior of the United States since 2007.
20. Petitioner is the father and primary financial support for his two-year-old United States citizen child.
21. On June 15, 2026, DHS issued a Notice to Appear (Form I-862), served on Petitioner on June 16, 2026, charging him under INA § 212(a)(6)(A)(i).

22. Petitioner was taken into custody while driving to his job without a warrant, without probable cause establishing flight risk or danger, and was provided no pre-detention hearing or opportunity to contest his arrest before a judicial magistrate.

23. On July 2, 2026, Petitioner was transferred to the Imperial Regional Detention Facility in Calexico, California, where he has been incarcerated for nearly a month without any post-detention custody hearing.

24. On July 30, 2026, attorney Hernando De Cima filed Form EOIR-28 entering an appearance as primary counsel.

25. Petitioner has no criminal history, poses no danger to the community, and presents no flight risk due to his 19-year residence and U.S. citizen child. DHS has articulated no probable cause or individualized justification for his continued physical confinement pursuant to 8 C.F.R. § 1236.1(c)(8).

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

26. Requesting a bond hearing directly before the IJ is futile because EOIR regulations and policy dictate that IJs lack jurisdiction to grant bond to individuals classified under 8 U.S.C. § 1225(b) without a federal court order. Exhaustion is therefore excused.

VI. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Violation of Statutory Framework – Applicable Detention Authority is 8 U.S.C. § 1226, Not § 1225(b)(2))

27. Petitioner incorporates all preceding paragraphs by reference.

28. Under *Esquivel Pacheco v. LaRose*, 818 F. Supp. 3d 1168 (S.D. Cal. 2026), a noncitizen residing in the interior of the United States at the time of arrest is

governed by the discretionary detention framework of 8 U.S.C. § 1226, not § 1225(b)(2).

29. Subjecting Petitioner to mandatory detention under § 1225(b)(2) violates the statutory structure of the INA.

SECOND CLAIM FOR RELIEF

(Violation of Fourth and Fifth Amendments – Deprivation of Liberty Without Probable Cause and Without Pre- or Post-Detention Hearing)

30. Petitioner incorporates all preceding paragraphs by reference.

31. The Fourth and Fifth Amendments guarantee that no person within the United States shall be deprived of physical liberty without probable cause and due process of law.

32. The government violates fundamental constitutional guarantees whenever it summarily arrests and incarcerates an individual in the interior of the country without probable cause establishing a necessity for detention, and without providing either a pre-detention hearing prior to confinement or a prompt post-detention hearing shortly after arrest before a neutral magistrate. *Gerstein v. Pugh*, 420 U.S. 103 (1975); *Manuel v. City of Joliet*, 580 U.S. 357 (2017).

33. Detaining Petitioner for nearly a month without probable cause of flight risk or danger, and completely barring pre- or post-detention custody review, constitutes an unlawful and arbitrary deprivation of liberty, entitling Petitioner to immediate release.

THIRD CLAIM FOR RELIEF

(Violation of Fifth Amendment Substantive Due Process – Arbitrary Detention and Right to Family Integrity)

34. Petitioner incorporates all preceding paragraphs by reference.

35. Substantive Due Process prohibits civil detention that is punitive, arbitrary, or not narrowly tailored to a compelling state interest. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

36. Indefinite detention of a long-term interior resident without individualized risk review is punitive and arbitrarily severs Petitioner's fundamental parental relationship with his two-year-old U.S. citizen child in violation of the Fifth Amendment. *Troxel v. Granville*, 530 U.S. 57 (2000).

FOURTH CLAIM FOR RELIEF

(Violation of the Eighth Amendment – Excessive Bail and Prohibition Against Arbitrary Punishment)

37. Petitioner incorporates all preceding paragraphs by reference.

38. The Eighth Amendment explicitly prohibits the requirement of excessive bail and the imposition of arbitrary or cruel punishment.

39. The total denial of bail review, or the setting of a monetary bond beyond Petitioner's financial capacity without evaluating non-monetary release alternatives, functions as an unconstitutional excessive bail sanction and arbitrary civil punishment barred by the Eighth Amendment.

FIFTH CLAIM FOR RELIEF

(Violation of Article I, Section 9, Clause 2 – Suspension Clause)

40. Petitioner incorporates all preceding paragraphs by reference.

41. Executive interpretations that bar long-term interior residents from accessing administrative or judicial custody reviews, without providing an adequate substitute remedy, violate the Suspension Clause of the U.S. Constitution.

SIXTH CLAIM FOR RELIEF

(Entitlement to Injunction Against Re-detention Without a Pre-Deprivation Bond Hearing)

42. Petitioner incorporates all preceding paragraphs by reference.

43. Because Petitioner has already been subjected to unconstitutional detention under 8 U.S.C. § 1226, due process mandates that Respondents be enjoined from re-detaining him without first providing a bond hearing before an Immigration Judge prior to any re-deprivation of liberty. See *Aceros v. Kaiser*, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Valencia Zapata v. Kaiser*, 801 F. Supp. 3d 919 (N.D. Cal. 2025); *O.G. v. Albarran*, 2026 WL 19105 (E.D. Cal. Jan. 3, 2026); *Boumediene v. Bush*, 553 U.S. 723 (2008); *Rodriguez v. Hayes*, 591 F.3d 1105 (9th Cir. 2010); *Clark v. Martinez*, 543 U.S. 371 (2005).

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. **GRANT** the Petition for Writ of Habeas Corpus;
2. **ORDER** Respondents to **IMMEDIATELY RELEASE** Petitioner from physical custody;
3. **IN THE ALTERNATIVE**, if the Court does not order immediate release, **ORDER** Respondents to afford Petitioner an individualized bond hearing before an Immigration Judge strictly within **SEVEN (7) CALENDAR DAYS** of the Court's Order, failing which Respondents must immediately release Petitioner from ICE custody. Any such bond hearing MUST strictly comply with the following mandatory stipulations:

- **Burden of Proof:** DHS shall bear the exclusive burden of proving by **clear and convincing evidence** that Petitioner presents a danger to the community or a flight risk;
- **Financial Proportionality (*Hernandez v. Sessions*):** The Immigration Judge MUST consider Petitioner's financial resources, income, and ability to pay when setting any monetary bond, ensuring that any bond set is financially achievable and not a *de facto* order of detention;
- **Non-Monetary Alternatives (*Hernandez v. Sessions*):** The Immigration Judge MUST explicitly consider and evaluate non-monetary alternatives to detention (including, but not limited to, release on own recognizance, order of supervision, community monitoring, or electronic monitoring);
- **Eighth Amendment Prohibition Against Excessive Bail:** The setting of a monetary bond beyond Petitioner's financial capacity without granting non-monetary conditions constitutes excessive bail and arbitrary punishment in violation of the Eighth Amendment;

4. **ENJOIN** Respondents from re-detaining Petitioner at any point in the future without first providing a **pre-deprivation bond hearing** before an Immigration Judge that complies with the procedural, burden-of-proof, financial proportionality, Fourth Amendment, and Eighth Amendment mandates set forth above;
5. **DECLARE** that taking Petitioner into custody without probable cause demonstrating flight risk or danger, and maintaining his detention without a pre- or post-detention hearing, violates the INA, the Fourth Amendment, the Fifth Amendment (Procedural/Substantive Due Process and Right to Family Integrity), the Eighth Amendment (Excessive Bail Clause), and the Suspension Clause;
6. **AWARD** Petitioner reasonable attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412; and
7. **GRANT** such other and further relief as the Court deems just and proper.

Dated: 7/30/2026

Respectfully submitted,

/s/Hernando De Cima
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Attorney for Petitioner

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner Maynor Estuardo Rodriguez-Garcia has resided in the interior of the United States since 2007 and is the father of a two-year-old United States citizen child. Detained at the Imperial Regional Detention Facility for over a month following a stop on his way to work, Petitioner was seized without probable cause of flight risk or danger and held without a pre- or post-detention hearing. Relying on *Esquivel Pacheco v. LaRose*, 818 F. Supp. 3d 1168 (S.D. Cal. 2026), Petitioner moves for immediate release or, in the alternative, a bond hearing strictly within seven (7) days governed by explicit *Hernandez v. Sessions*, Fourth Amendment, Eighth Amendment, and Due Process safeguards.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Petitioner was born on [redacted] in Guatemala and has resided continuously in the United States since 2007. He was served with an NTA on June 16, 2026, and transferred to ICE detention on July 2, 2026. Attorney Hernando De Cima entered an appearance on July 30, 2026. Petitioner was seized while driving to work without a warrant or probable cause justifying physical restraint, possesses no criminal record, poses no danger or flight risk, and has been denied any pre- or post-detention custody hearing.

III. JURISDICTION AND EXHAUSTION OF REMEDIES

8 U.S.C. §§ 1252(g), (a)(5), and (b)(9) do not bar Petitioner's collateral challenge to the constitutionality and legality of his current detention. *Esquivel Pacheco v. LaRose*, 818 F. Supp. 3d 1168, 1174-75 (S.D. Cal. 2026). Exhaustion before the IJ is excused due to administrative futility.

IV. LEGAL ARGUMENTS

A. Petitioner is Subject to 8 U.S.C. § 1226, Not § 1225(b)(2)

As established in *Esquivel Pacheco v. LaRose*, 818 F. Supp. 3d at 1174-75, noncitizens who were already residing in the interior of the United States at the time of arrest fall under the discretionary detention framework of 8 U.S.C. § 1226, not mandatory detention under § 1225(b)(2).

B. Seizure and Detention Without Probable Cause and Without a Pre- or Post-Detention Hearing Violates the Fourth and Fifth Amendments

Freedom from bodily restraint is a core liberty interest. *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017). The U.S. Constitution prohibits the executive branch from depriving any individual inside the country of physical liberty without probable cause establishing that detention is necessary, and without providing prompt judicial review. See *Gerstein v. Pugh*, 420 U.S. 103 (1975); *Manuel v. City of Joliet*, 580 U.S. 357 (2017).

Denying Petitioner both a pre-detention hearing prior to confinement and a post-detention bond hearing shortly after arrest creates an unconstitutional regime of summary physical imprisonment. Detaining Petitioner for nearly a month without an individualized determination under 8 C.F.R. § 1236.1(c)(8) creates an intolerable risk of erroneous deprivation where Petitioner was arrested without probable cause of dangerousness or flight risk, has no criminal history, is a 19-year interior resident, and supports his 2-year-old U.S. citizen child. Immediate release is required. *Esquivel Pacheco*, 818 F. Supp. 3d at 1175.

C. Additional Constitutional Violations: Substantive Due Process, Eighth Amendment, and Suspension Clause

1. **Fifth Amendment Substantive Due Process & Family Integrity:** Civil detention must be non-punitive and narrowly tailored. *Zadvydas v. Davis*, 533 U.S. 678 (2001). Arbitrarily severing a father from his two-year-old U.S. citizen child infringes upon the fundamental right to family integrity. *Troxel v. Granville*, 530 U.S. 57 (2000).
2. **Eighth Amendment Excessive Bail Prohibition:** Completely barring bail review or imposing financial bond amounts beyond a detainee's ability to pay without considering non-monetary alternatives violates the Excessive Bail Clause of the Eighth Amendment.
3. **Suspension Clause:** Denying habeas judicial review or effective remedies violates Article I, Section 9, Clause 2.

D. If a Bond Hearing is Ordered in the Alternative, It Must Comply with Explicit Constitutional Stipulations Within 7 Days

Should the Court decline immediate release and order a bond hearing in the alternative, constitutional standards require the Order to incorporate the following mandatory stipulations:

1. **Seven (7) Day Hard Deadline:** The hearing must occur within **7 calendar days**, or Petitioner must be released immediately.
2. **Clear and Convincing Burden of Proof on DHS:** Under *Hernandez v. Sessions*, 872 F.3d at 993, DHS must prove by clear and convincing evidence that Petitioner is a flight risk or danger.
3. **Financial Proportionality and Ability to Pay (*Hernandez*):** The IJ must make explicit findings regarding Petitioner's financial capacity.
4. **Mandatory Consideration of Non-Monetary Alternatives:** The IJ must explicitly evaluate conditional release options (own recognizance, electronic monitoring, order of supervision).

5. **Eighth Amendment Excessive Bail Prohibition:** Setting bond beyond Petitioner's reach without granting non-monetary release alternatives constitutes excessive bail barred by the Eighth Amendment.

E. Respondents Must Be Enjoined From Redetaining Petitioner Without a Pre-Deprivation Hearing

Because Petitioner is entitled to a bond hearing under § 1226, the Court must enjoin Respondents from redetaining him without first providing a **pre-deprivation bond hearing** before an Immigration Judge to justify any new deprivation of liberty. See *Aceros v. Kaiser*, 2025 WL 2637503, at *12 (N.D. Cal. Sept. 12, 2025); *Valencia Zapata v. Kaiser*, 801 F. Supp. 3d 919, 938 (N.D. Cal. 2025); *O.G. v. Albarran*, 2026 WL 19105, at *5 (E.D. Cal. Jan. 3, 2026); *Boumediene v. Bush*, 553 U.S. 723 (2008).

V. CONCLUSION AND PRAYER FOR RELIEF

For the reasons set forth herein, Petitioner Maynor Estuardo Rodriguez-Garcia respectfully requests that this Court grant the Memorandum of Points and Authorities and enter an Order mirroring the Prayer for Relief in the Petition for Writ of Habeas Corpus as follows:

1. **GRANT** the Petition for Writ of Habeas Corpus;
2. **ORDER** Respondents to **IMMEDIATELY RELEASE** Petitioner Maynor Estuardo Rodriguez-Garcia from physical custody;
3. **IN THE ALTERNATIVE**, if the Court does not order immediate release, **ORDER** Respondents to afford Petitioner an individualized bond hearing before an Immigration Judge strictly within **SEVEN (7) CALENDAR DAYS** of the Court's Order, failing which Respondents must immediately release Petitioner from ICE custody, subject to the mandatory stipulations that:
    - DHS shall bear the burden of proving danger or flight risk by **clear and convincing evidence**;

- The Immigration Judge MUST consider Petitioner's financial resources and **ability to pay** under *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017);
- The Immigration Judge MUST explicitly evaluate **non-monetary alternatives** to detention; and
- The setting of a bond beyond Petitioner's financial capacity is strictly barred as **excessive bail** under the Eighth Amendment;

4. **ENJOIN** Respondents from re-detaining Petitioner at any point in the future without first providing a **pre-deprivation bond hearing** before an Immigration Judge that strictly complies with the constitutional conditions set forth above;
5. **DECLARE** that taking Petitioner into custody without probable cause and detaining him without a pre- or post-detention hearing violates the INA, the Fourth Amendment, the Fifth Amendment (Procedural/Substantive Due Process and Family Integrity), the Eighth Amendment, and the Suspension Clause;
6. **AWARD** Petitioner reasonable attorney's fees and costs under EAJA, 28 U.S.C. § 2412; and
7. **GRANT** such other and further relief as the Court deems just and proper.

Dated: 7/30/2026

Respectfully submitted,

/s/Hernando De Cima
Hernando De Cima, Esq
105 N Rose St Ste 109
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858-525-5578
Attorney for Petitioner

ATTORNEY VERIFICATION

I, Hernando De Cima, declare as follows under penalty of perjury:

1. I am an attorney licensed to practice law in the State of California and am counsel of record for Petitioner in these federal habeas corpus proceedings.
2. I have read the foregoing Petition for Writ of Habeas Corpus and Memorandum of Points and Authorities. I am familiar with the contents thereof.
3. The factual allegations concerning Petitioner's immigration history, removal charges, detention status, and scheduled Immigration Court hearings are true and correct to the best of my personal knowledge, based on an exhaustive review of official Department of Homeland Security and Executive Office for Immigration Review documents provided to my firm.
4. I execute this verification on behalf of Petitioner because he is currently detained at a secure facility located away from my office, making an immediate client signature logistically unfeasible before emergency filing deadlines.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct.

Dated: 7/30/2026

Respectfully submitted,

/s/Hernando De Cima
Hernando De Cima, Esq
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Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Hernando De Cima, certify that on 7/30/2026, I filed the foregoing with the Clerk of the Court via CM/ECF and will serve the Respondents and the U.S. Attorney's Office for the Southern District of California.

Dated: 7/30/2026

Respectfully submitted,

/s/Hernando De Cima
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Attorney for Petitioner

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

PROPOSED ORDER TO SHOW CAUSE

Upon consideration of the verified Petition for a Writ of Habeas Corpus filed by Petitioner on 7/30/2026:

IT IS HEREBY ORDERED that Respondents show cause before this Court why a Writ of Habeas Corpus should not issue directing Petitioner's release from civil immigration custody or, in the alternative, ordering Respondents to provide Petitioner with an individualized, constitutional custody redetermination hearing before an Immigration Judge.

IT IS FURTHER ORDERED THAT:

1. Respondents shall file a Return to the Petition and Show Cause Response, including any supporting briefs, declarations, or administrative records within three (3) calendar days of the date of service of this Order;
2. Petitioner may file a Traverse/Reply to Respondents' Return on or before within two (2) calendar days of the filing of Respondents' Return; and
3. A hearing on the Petition is scheduled before the Honorable District Court Judge on **_____, 2026, at ___:___ __.m.** in Courtroom ___ of the United States District Court for the Southern District of California, located at 333 West Broadway, San Diego, CA 92101.

IT IS SO ORDERED.

Dated: _____, 2026

_____

UNITED STATES DISTRICT JUDGE