IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

YERICK JOHAO ARANA HARO,

Petitioner,

v.

OFFICER-IN-CHARGE of Imperial Regional Detention Facility, in his/her official capacity; DAVID J. VENTURELLA, Acting Director of Immigration and Customs Enforcement, in his official capacity; MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security; in his official Capacity; and TODD BLANCHE, Acting Attorney General of the United States, in his official capacity;

Respondents.

Case No.: '26CV4533 RBM BJW

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Yerick Jahao Arana Haro is a 20-year-old young man from Ecuador and brings this Verified Petition for a Writ of Habeas Corpus to challenge his unlawful detention by the Department of Homeland Security ("DHS")

2. On or about, April 17, 2024, he came to the United States at or near Otay Mesa, California.

3. Once he arrived in the United States, DHS issued him a Notice to Appear dated April 18, 2024, designating him as "an alien present in the United States who has not been admitted or paroled." He was not put into expedited removal proceedings or designated as an Arriving Alien.

4. DHS then released him into the United States on an Order of Release on Recognizance ("ORR"), which are issued under the Immigration and Nationality Act § 236, 8 U.S.C. § 1226.

5. On or about July __, 2026, without warning, without a finding that he was a flight risk or a danger to society, without a finding that he had violated the ORR, and without an opportunity to go before a neutral factfinder to determine if he was a danger or flight risk, ICE detained him.

6. He is currently detained in the Imperial Regional Adult Detention Facility in Calexico, CA.

7. Upon information and belief, Respondents are detaining him under 8 U.S.C. § 1225(b)(2), which contains a mandatory detention provision and does not allow Petitioner to receive a bond hearing.

8. Petitioner submits that he is detained under 8 U.S.C. § 1226(a), which entitles him to immediate release and, in the alternative, a bond hearing.

9. For these reasons, Petitioner submits that his continued detention is unlawful as it violates both the INA and the Fifth Amendment of the U.S. Constitution.

CUSTODY

10. At the time of the filing of this petition, Petitioner is physically detained at the Imperial Regional Detention Facility in Calexico, CA. He is in physical custody of the Officer-

in-Charge of the Imperial Regional Detention Facility. He and his agents have direct control of Petitioner. The other Respondents have some level of legal control over Petitioner and authority to detain or release him now and in the future.

JURISDICTION

11. This action arises under the United States Constitution and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. § 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

Exhaustion of administrative remedies is not required when that Exhaustion would be futile. Machado v. Dir. of the Otay Mesa Det. Ctr., No. 25-cv-3277, 2026 U.S. Dist. LEXIS 9290, at *5 (S.D. Cal. Jan. 16, 2026). In this case, any attempt at a bond hearing would be futile because the Board of Immigration Appeals, which serves as an appeals body in the immigration courts and whose published decisions bind the immigration judges, have issued two decision that directly address Petitioner's specific case: Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) and Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025). In these decisions, the Board held that immigration judges do not have jurisdiction to issue bonds to individuals, like the Petitioner who were detained either in the interior or initially apprehended at the border and then released. As Petitioner was not

initially detained in the interior, the immigration judges are required to follow these two cases. For these reasons, Petitioner submits that any attempt to get a bond hearing in front of immigration judge would be futile. Therefore, the Court should not apply the prudential exhaustion requirement to him.

VENUE

12. Venue lies in the United States District Court for the Southern District of California, the judicial district where Petitioner is detained and where a substantial part of the events or omissions giving rise to this claim occurred. 28 U.S.C. § 1391(e).

PARTIES

13. Petitioner is a citizen and national of Ecuador. He is currently detained at the Imperial Regional Detention Facility in Calexico, CA. He is in the custody and under the direct control of Respondents and their agents.

14. Upon information and belief, Respondent Officer-in-Charge of the Imperial Regional Detention Facility and is sued in his/her official capacity. He has immediate physical custody of Petitioner and is the physical and legal custodian of Petitioner.

15. David J. Venturella is the Acting Director of ICE and sued in his official capacity. In this capacity, he has ultimate authority over Petitioner's detention and is a legal and physical custodian of Petitioner.

16. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Mullin has direct supervisory authority over Petitioner's detention and legal custody of Petitioner.

17. 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

this capacity, he has 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 ("BIA"). '

STATEMENT OF FACTS

18. Petitioner came to the United States on or about April 17, 2024. A true and accurate copy of her redacted Notice to Appear ("NTA") is attached as Exhibit A.

19. DHS designated him as being "an alien present in the United States who has not been admitted or paroled." Exhibit A.

20. After his initial apprehension, on April 18, 2024, DHS released him on an Order of Release on Recognizance ("ORR"). A true and accurate copy of the ORR is attached as Exhibit B.

21. On or about March 4, 2025, Petitioner submitted an application to stay in the United States to United States Citizenship and Immigration Services

22. On or about November 12, 2025, USCIS issued Petitioner a work permit. A true and accurate copy of the approval notice is attached as Exhibit C.

23. On or about June 23, 2026, ICE detained Petitioner while he was at work.

24. Upon information and belief, ICE never alleged that he violated the terms of her ORR.

25. Upon information and belief, ICE never alleged that he was a flight risk or a danger to the community.

26. Upon information and belief, ICE is detaining him pursuant to 8 U.S.C. § 1225(b)(2).

27. Upon information and belief, Petitioner has no criminal record or a record of missing court appearances.

LEGAL BACKGROUND

I. PETITIONER'S DENTENTION VIOLATES HIS DUE PROCESS RIGHTS

28. Noncitizens present in the United States are protected by the Due Process Clause of the Fifth Amendment, which prohibits deprivations of life, liberty, and property without due process of law. See Trump v. J.G.G., 604 U.S. 670, 673 (2025); Reno v. Flores, 507 U.S. 292, 306 (1993); Zadvydas v. Davis, 533 U.S. 678, 693 (2001). The Due Process Clause "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." See Zadvydas, 533 U.S. at 693.

29. Judges in this district and around the country have held that individuals, like Petitioner who were released on his own recognizance, "entitles the petitioner to certain due process right under both procedural due process and the Administrative Procedure Act ('APA')." Isoev v. LaRose, No. 26-cv-1361-JES-DDL, 2026 U.S. Dist. LEXIS 58264, at *6-7 (S.D. Cal. Mar. 19, 2026) (collecting cases).

30. When Petitioner was released from his initial detention on his own recognizance, Petitioner "took with him a liberty interest which is entitled to the full protections of the due process clause." Id. at *7.

31. Once that interest is established, "Petitioner's interest in liberty is a constitutional right which may only be revoked through methods that purport with due process." Id. (internal quotations and citations omitted).

32. Here Petitioner was granted release on his own recognizance which created a liberty interest protected by the due process clause. These protections include not only notice but also a meaningful opportunity to be heard. Id. at 8-9.

33. Given that Petitioner has a protected liberty interest, Courts in this District utilize the due process test in Mathews v. Eldridge, 424 U.S. 319, 333 (1976) to determine whether someone's due process rights are violated.

34. Under the Mathews test, courts consider: (1) "the private interest that will be affected by the official action"; (2) "the Government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedural requirements would entail"; and (3) "the risk of erroneous deprivation through the procedures used, and the probable value of additional safeguards." Here, each factor weighs decisively in Petitioner's favor.

35. First, as discussed above, Petitioner has a private interest in freedom and detention is depriving her of that interest. Therefore, this factor weighs heavily in favor of the Petitioner.

36. Second, the Government has a generalized interest in ensuring that noncitizens appear at their immigration court hearings and are not a danger to persons or property. But the government has already determined that Petitioner is neither a danger nor a flight risk, Furthermore, the government has made no allegation that this has changed. They simply arrested and detained the Petitioner. Therefore, this factor significantly favors Petitioner.

37. As to the third factor, given the facts of this case, there is considerable risk of erroneous deprivation of her due process rights given the current lack of any procedures to

ensure that his due process rights are not violated. He was given no meaningful opportunity to be heard. Therefore, this factor also heavily favors Petitioner.

38. For these reasons, Petitioner can meet this due process test as well and asks for immediate release, or, at the very least, a bond hearing with the burden on the government to prove by clear and convincing evidence that she is not a flight risk or a danger to society.

II. PETIITONER IS DETAINED UNDER 8 U.S.C. § 1226(a).

39. While the government is detaining Petitioner 8 U.S.C. § 1225(b)(2), this is erroneous as hhe has already been classified under 8 U.S.C. § 1226(a) and the facts and circumstances of her case do not justify detention under § 1225(b)(2).

40. Most of the judges in this district have already ruled that individuals similarly situated to the Petitioner fall under § 1226(a) because the term "applicant for admission" is not the same thing as "seeking admission" and a non-citizen must be doing both at the same time to qualify for classification under § 1225(b).

41. Petitioner had already been in the country for several years when ICE detained him. Therefore, Petitioner falls under 8 U.S.C. § 1226(a)

42. In addition, because DHS already classified Petitioner under § 1226(a) by releasing him on an ORR, hhe remains classified under § 1226(a).

43. For these reasons, Petitioner is detained under § 1226(a).

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

(Illegal Detention)

44. Petitioner has a liberty interest by generally due to the U.S. Constitution and due to DHS giving him an order of release on recognizance.

45. Petitioner has followed all of the conditions of the ORR.

46. Respondents have made no allegation that he is either a danger to society or a flight risk.

47. Respondents did not provide Petitioner any meaningful opportunity to respond to any allegations

48. Petitioner's continued detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention and warrants immediate release.

COUNT TWO

Violation of 8 U.S.C. 1226(a) and Associated Regulations

49. Petitioner is detained, if at all, pursuant to 8 U.S.C. § 1226(a).

50. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. See 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

51. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

52. Petitioner's continuing detention is therefore unlawful.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;

2. Order that Petitioner shall not be transferred outside this District;

3. Issue an Order to Show Cause ordering Respondents to show why this Petition should not be granted within three days.

4. Declare that Petitioner's detention is unlawful.

5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or, in the alternative, provide Petitioner with a bond hearing and order Petitioner's release with the burden on the government to prove by clear and convincing evidence that she is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger or on conditions the Court deems just and proper.

6. Order that Respondents return all personal property to Petitioner.

7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

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

Dated: August 7, 2026

Fallbrook, California

Respectfully submitted,

/s/ Curtis Lee Morrison

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