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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Samuel Guillen Romero,

Petitioner,

v.

Jeremy Casey Warden, Imperial Regional Adult Detention Facility;

Current or Acting Field Office Director, ICE

Current or Acting Attorney General of The United States;

Markwayne Mullins, Secretary, DHS,

Respondents.

Case No. '26CV4648 BJC VET

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

I. INTRODUCTION

Samuel Guillen Romero, Petitioner, by and through undersigned counsel, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 and alleges as follows.

JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241(c)(3), which authorizes habeas relief when a person is "in custody in violation of the Constitution or laws or treaties of the United

States." Federal courts retain habeas jurisdiction over challenges to the legality of immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003).

Petitioner's claims challenge the legal authority and constitutionality of his present detention. They do not seek review of any final order of removal, discretionary decision regarding immigration relief, or determination concerning the merits of Petitioner's asylum proceedings.

The jurisdictional limitations contained in 8 U.S.C. § 1252 therefore do not deprive this Court of habeas jurisdiction over Petitioner's detention claims. This Court additionally has federal-question jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States.

Venue is proper in this District under 28 U.S.C. § 2241 because Petitioner is presently confined at the Imperial Regional Detention Facility in Calexico, California, within the Southern District of California. Petitioner's immediate custodian is the Warden of that facility.

Recent habeas actions involving persons confined at the Imperial Regional Detention Facility have accordingly proceeded in this District. *See, e.g., Maldonado-Romero v. Warden of Imperial Regional Detention Facility*, No. 3:26-cv-02366-RBM-SBC (S.D. Cal. May 13, 2026); *Popov v. Warden of Imperial Detention Facility*, No. 3:26-cv-01174-JES-BLM (S.D. Cal. Apr. 7, 2026).

II. PARTIES

Petitioner Samuel Guillen Romero (A# [redacted]) is a native and citizen Mexico who has resided in the United States since approximately and is currently detained in ICE custody in Calexico, California.

Respondent Jeremy Casey is the Warden of the Imperial regional Detention Facility and Petitioner's immediate physical custodian.

Respondent Current or Acting Field Office Director of the San Diego Field Office of ICE is responsible for ICE detention and custody operations within this District and exercises legal authority over Portioner's continued detention.

Respondent Current or Acting Secretary of the Department of Homeland Security is responsible for the administration and enforcement of federal immigration laws and has supervisory authority over ICE.

Respondent Current or Acting Attorney General of the United States has supervisory responsibility over the Executive Office for Immigration Review and Immigration Judges who conduct custody redetermination proceedings.

III. STATEMENT OF FACTS

Mr. Guillen Romero is a 26-year-old native and citizen of Honduras who has lived in the United States since arriving as an unaccompanied minor in late 2017. He was born on [redacted], in Puerto Cortes, Honduras. After being taken into federal custody as a minor, he was released by the Office of Refugee Resettlement ("ORR") to a sponsor in February 2018.

Mr. Guillen Romero did not disappear after his release. He built a life in the United States. He filed an application for asylum in 2019, obtained employment authorization, worked, paid taxes, established a residence, and became the father of a United States citizen child.

On or about April 18, 2026, Immigration and Customs Enforcement ("ICE") detained Mr. Guillen Romero in Florida. No criminal charges arising from his arrest are known to have been filed against him, and Petitioner has no known criminal convictions.

Mr. Guillen Romero promptly sought an individualized custody redetermination before the Miami Krome Immigration Court pursuant to 8 C.F.R. § 1236. He submitted substantial evidence addressing the traditional immigration bond considerations, including evidence of longstanding residence, employment, tax compliance, a United States citizen child, family and community ties, lawful employment authorization, multiple character references, and willing sponsors.

The Immigration Judge did not deny bond. The Immigration Judge did not find that Mr. Guillen Romero posed a danger. The Immigration Judge did not find him to be a flight risk. And the Immigration Judge did not determine that no conditions of release could reasonably assure his appearance.

Instead, before the requested bond hearing could occur, ICE transferred Mr. Guillen Romero away from the Miami Krome Immigration Court. On June 8, 2026, Immigration Judge Monica Barba entered an order stating only: "Detainee transferred prior to bond hearing."

Mr. Guillen Romero was ultimately transferred across the country to the Imperial Regional Detention Facility in Calexico, California, where he remains confined today.

As a result, although Petitioner affirmatively invoked the administrative process for obtaining review of his detention, he has remained continuously detained since April 18, 2026 without ever receiving the individualized custody determination he requested.

Petitioner's removal proceedings remain ongoing. He is pursuing asylum, withholding of removal, and protection under the Convention Against Torture. His current individual merits hearing is scheduled for September 3, 2026, at 2:30 p.m. before the Imperial Immigration Court.

Petitioner does not ask this Court to determine whether he should ultimately be removed from the United States. Nor does he ask this Court to adjudicate the merits of his asylum application.

He asks only that the Government not imprison him during those proceedings without providing the process required by federal law and the Fifth Amendment.

For nearly three decades, the Government generally treated noncitizens apprehended in the interior of the United States and placed in ordinary removal proceedings as detained under 8 U.S.C. § 1226.

Section 1226(a) expressly authorizes release on bond or conditional parole and its implementing regulations permit custody redetermination before an Immigration Judge.

Mr. Guillen Romero falls within that statutory framework. He was not apprehended while attempting to enter the United States in 2026. He entered approximately eight years earlier, was taken into federal custody as an unaccompanied minor, was released by ORR, and thereafter lived openly in the United States for years before his present arrest.

If Respondents nevertheless contend that Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(2), Petitioner challenges that construction as inconsistent with the statutory text and structure and preserves the issue for review.

Alternatively, even if § 1225(b)(2) applies, the Due Process Clause does not permit the Government to subject a person with substantial ties to this country to potentially lengthy civil incarceration without any individualized determination that detention remains necessary.

The Court should grant the writ and require Respondents to provide Petitioner with a prompt individualized bond hearing before a neutral Immigration Judge.

At that hearing, the Government should bear the burden of demonstrating by clear and convincing evidence that continued detention is necessary because Petitioner presents a danger to the community or risk of flight and that no less restrictive conditions would reasonably address those concerns.

Following his entry, federal immigration authorities treated Petitioner as an unaccompanied minor and transferred him to the custody of the Office of Refugee Resettlement. ORR subsequently released Petitioner from federal custody to an adult sponsor in February 2018.

The ORR documentation expressly required Petitioner's sponsor to ensure Petitioner's appearance at future proceedings before the Department of Homeland Security and Executive Office for Immigration Review. Petitioner thereafter remained in the United States.

On July 10, 2019, Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal. USCIS issued a receipt acknowledging that Petitioner's complete application had been received and was pending as of July 10, 2019. Petitioner subsequently completed immigration biometrics processing.

Petitioner's asylum application remained pending for years. Petitioner obtained employment authorization based upon his pending asylum application. Petitioner's most recent employment authorization documentation reflects Category C08 authorization extending through 2028.

During the years preceding his current detention, Petitioner established substantial ties to the United States. Petitioner resided in South Florida. Utility records document residential service in Petitioner's name. Petitioner worked lawfully pursuant to employment authorization.

Petitioner worked as a sushi chef at Rice Asian House & Sushi Bar in Sunny Isles Beach, Florida. His employer described Petitioner as a good employee and team player and indicated

that the restaurant would hire him again. Petitioner's wage records document substantial earned income. Petitioner's 2025 W-2 reflects approximately $25,364 in wages. Petitioner filed federal income tax returns.

Petitioner is also the father of a young United States citizen child, [redacted] Guillen Lainez. [redacted] was born in Hollywood, Florida on [redacted]. [redacted]'s Florida birth certificate identifies Petitioner as his father. Petitioner's tax records likewise identify [redacted] as his son and dependent and indicate that the child lived with Petitioner during the relevant tax year.

Petitioner's community ties are corroborated by numerous individuals who submitted letters in support of his release. Those individuals consistently describe Petitioner as hardworking, peaceful, dependable, respectful, committed to his family, and a person who does not pose a danger to others.

Petitioner also presented proposed sponsors willing to assist him if released. Rosa Carpio submitted a sworn affidavit stating that she was prepared to provide support and assistance to Petitioner, help ensure that he complies with release conditions, keep him informed of immigration court hearings, and encourage and assist his attendance at required immigration proceedings.

Julia Micaela Somarriba Guillen, a lawful permanent resident, likewise agreed to support Petitioner and ensure his compliance with immigration proceedings and any conditions of release. On or about April 18, 2026, Petitioner's brother was stopped while Petitioner was traveling nearby in a separate vehicle.

Believing that his brother had been stopped by police, Petitioner approached to determine what had occurred. The officers were immigration officers. During the encounter, Petitioner attempted to leave in his vehicle and was thereafter pursued and detained by immigration officers.

Petitioner understands that immigration officers may characterize aspects of the encounter as resistance. Petitioner is unaware of any criminal charge or conviction arising from that encounter. Petitioner has remained in immigration custody continuously since approximately April 18, 2026.

Petitioner did not remain passive following his detention. Through immigration counsel, Petitioner requested custody redetermination before the Miami Krome Immigration Court pursuant to 8 C.F.R. § 1236. Petitioner assembled and submitted substantial evidence supporting release.

That evidence addressed Petitioner's family ties, residence, employment, taxes, immigration history, pending asylum application, United States citizen child, character, prospective sponsors, ability to comply with conditions, danger, and flight risk.

A bond hearing was scheduled before the Miami Krome Immigration Court. Before the Immigration Judge could adjudicate the request, ICE transferred Petitioner from the jurisdiction. On June 8, 2026, Immigration Judge Monica Barba entered an Order of the Immigration Judge documenting what occurred.

The Immigration Judge did not select the portion of the form denying custody redetermination. The Immigration Judge did not find that Petitioner was dangerous. The Immigration Judge did not find Petitioner to be a flight risk. The Immigration Judge did not set or deny bond. Instead, the Immigration Judge checked "Other" and wrote:
"Detainee transferred prior to bond hearing."

Thus, Petitioner invoked the available custody redetermination mechanism, but ICE's transfer occurred before the Immigration Judge could decide whether continued detention was justified.

ICE ultimately transferred Petitioner across the country to the Imperial Regional Detention Facility in Calexico, California. Petitioner remains detained there today.

Despite his request for custody redetermination, Petitioner has never received an adjudication on whether he poses a danger or flight risk or whether conditions of release could adequately address the Government's interests.

Accordingly, Petitioner's confinement continues without an individualized finding that detention is necessary. Petitioner is currently in proceedings under INA § 240 before the Imperial Immigration Court. DHS has charged Petitioner as removable based upon his entry without inspection.

Petitioner's Notice to Appear alleges that he entered near Hidalgo, Texas on or about November 30, 2017. The NTA charges inadmissibility under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). Petitioner seeks asylum, withholding of removal, and protection under the Convention Against Torture. Petitioner's removal proceedings are not administratively final. No executable final order of removal presently exists.

Petitioner's current individual merits hearing is scheduled for September 3, 2026 at 2:30 p.m. before the Imperial Immigration Court. If relief is denied, administrative and potentially judicial review may substantially extend the period during which his immigration proceedings remain pending.

IV. LEGAL FRAMEWORK

1. Immigration detention is civil and non-punitive. *Zadvydas v. Davis*, 533 U.S. 678 (2001).
2. Even where detention is authorized by statute, due process requires meaningful, individualized justification. *Diouf v. Napolitano (Diouf II)*, 634 F.3d 1081 (9th Cir. 2011).
3. An administrative stay cannot be used to nullify a judicial custody determination indefinitely or without adequate procedural safeguards.
4. Civil detention cannot continue without lawful authority (*Zadvydas v. Davis*, 533 U.S. 678 (2001.)
5. Section 1226(a) provides the general detention framework for noncitizens arrested in the interior of the United States while a decision regarding removability remains pending.
6. Section 1226(a) authorizes the Government either to continue detention or release a noncitizen on bond or conditional parole.
7. Regulations implementing § 1226(a) permit a detained person to obtain review of an initial ICE custody determination before an Immigration Judge. *See* 8 C.F.R. §§ 236.1(d), 1236.1(d).
8. The Supreme Court has recognized that "[f]ederal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention." *Jennings v. Rodriguez*,

583 U.S. 281, 306 (2018).

9. The Ninth Circuit has likewise described § 1226 as providing "the general process for arresting and detaining aliens who are present in the United States and eligible for removal." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022).

10. Under the longstanding Section 1226(a) framework, custody may be reviewed by an Immigration Judge, who considers dangerousness, risk of flight, and the availability of conditions that permit release.

11. In 2025, DHS adopted a materially different interpretation under which it began asserting that certain persons who entered without inspection—even those apprehended years later in the interior—are subject to mandatory detention under § 1225(b)(2).

12. Numerous federal courts have rejected that interpretation, reasoning that § 1225(b)(2)'s reference to an "alien seeking admission" does not encompass every person who entered without inspection and has thereafter lived for years within the United States.

13. Petitioner preserves that statutory question.

CLAIMS FOR RELIEF

Claim One: Violation of Due Process

The Due Process Clause requires a meaningful opportunity to be heard before deprivation of liberty (*Mathews v. Eldridge*, 424 U.S. 319, 333 (1976.)

Petitioner's continued detention without a meaningful custody hearing violates procedural due process. His detention has become unreasonably prolonged. Respondents continue depriving Petitioner of liberty without constitutionally adequate safeguards.

Petitioner was not apprehended at or near the border while attempting to enter the United States in 2026. Rather, he entered the country approximately eight years before his current detention. He was apprehended as a minor, placed into ORR custody, and affirmatively released by the federal government.

He thereafter lived in the United States for approximately eight years before his current arrest. During that period he maintained a pending asylum application, obtained employment

authorization, worked, filed taxes, established a home, and became the father of a United States citizen child.

Section 1226(a), rather than § 1225(b)(2), governs the detention of persons arrested under these circumstances. The distinction is consequential because § 1226(a) expressly permits release on bond or conditional parole.

Its implementing regulations provide for Immigration Judge review of custody. Petitioner timely invoked that process. But ICE transferred Petitioner before the Immigration Judge could conduct his bond hearing.

The Government cannot convert a statutory right to custody review into an empty formality by moving the detainee before the requested review can occur and then continuing detention without any determination of necessity. Petitioner remains detained without having received the custody redetermination contemplated by § 1226(a) and its implementing regulations.

His continued detention without that process is contrary to federal law. The Court should issue the writ and require Respondents to provide Petitioner a prompt custody redetermination hearing under § 1226(a).

Claim Two: Alternatively, Detention Without Any Individualized Determination Violates the Fifth Amendment

The Fifth Amendment provides that no person shall be deprived of liberty without due process of law. Freedom from physical confinement lies at the core of the liberty protected by the Due Process Clause. (*Zadvydas,* 533 U.S. at 690.)

Immigration detention is civil, not punitive. Civil detention must therefore bear a reasonable relationship to legitimate regulatory purposes such as preventing flight and protecting the community. Detention cannot constitutionally become punishment without the protections attendant to criminal proceedings.

Petitioner has now been confined for months without any individualized judicial determination that he is dangerous, likely to flee, or incapable of complying with reasonable conditions of release.

The absence of such a determination is particularly significant here because Petitioner affirmatively requested one. The Immigration Judge stood ready to consider his custody request. The hearing never occurred because ICE transferred Petitioner away from the Immigration Court before the matter could be adjudicated. Continued incarceration following that transfer has deprived Petitioner of a meaningful opportunity to test whether detention is actually necessary.

The Government's interest in securing Petitioner's appearance can be protected through less restrictive means if appropriate, including monetary bond, electronic monitoring, reporting requirements, residence requirements, or other conditions.

Petitioner's individualized circumstances strongly support the efficacy of alternatives to incarceration. He has a United States citizen child. He has a lengthy pending asylum claim. He has no known criminal convictions. He has substantial family and community ties. He has documented employment and tax history. He has lawful employment authorization. He has multiple proposed sponsors. He has a fixed place to reside if released. These circumstances provide powerful incentives for Petitioner to appear at immigration proceedings.

Yet no neutral decisionmaker has weighed those facts against the Government's asserted basis for detention. Due process requires more. In determining what process is due, courts consider Petitioner's substantial liberty interest, the risk of erroneous deprivation under existing procedures, the probable value of additional safeguards, and the Government's interests. (*Mathews v. Eldridge*, 424 U.S. 319, 335 (1976.)

All of those considerations favor a meaningful individualized custody hearing here.

Petitioner's private interest—freedom from physical incarceration—is exceptionally weighty. The risk of erroneous detention is substantial where no adjudicator has ever determined that Petitioner presents a danger or flight risk.

A bond hearing provides obvious value because it permits a neutral adjudicator to evaluate the Government's allegations alongside Petitioner's considerable release evidence. And requiring the Government to justify civil incarceration imposes minimal additional burden because Immigration Judges routinely conduct custody hearings.

Accordingly, if Petitioner's detention is not governed by § 1226(a), the Fifth Amendment independently requires a constitutionally adequate individualized bond hearing.

Claim Three: At a Constitutionally Required Bond Hearing, the Government Must Justify Continued Detention

Where due process requires a bond hearing because civil detention has become constitutionally problematic, the burden cannot remain entirely upon the detained person to prove why the Government should stop incarcerating him.

The Ninth Circuit has recognized the substantial liberty interest at stake in immigration detention and has required heightened procedural safeguards when continued confinement demands constitutional justification. *See Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011); *Martinez v. Clark*, 124 F.4th 775, 785–86 (9th Cir. 2024).

Recent decisions from this District have ordered constitutionally required immigration bond hearings at which the Government bears the burden of proving danger or flight risk by clear and convincing evidence.

In *Vinogradov v. Warden of Otay Mesa Detention Center*, No. 3:26-cv-00497-JLS-SBC, the Court ordered a § 1226(a) bond hearing at which the Government was required to establish danger or flight risk by clear and convincing evidence.

Likewise, in *Maldonado-Romero v. Warden of Imperial Regional Detention Facility*, No. 3:26-cv-02366-RBM-SBC, the Court required the Government to justify continued detention by clear and convincing evidence.

Similar relief has repeatedly been ordered in this District in 2025 and 2026. If the Immigration Judge finds that release conditions are required, due process further requires meaningful consideration of alternatives to detention and, before imposing monetary bond, Petitioner's ability to pay.

Petitioner therefore requests a hearing at which Respondents must establish by clear and convincing evidence that he presents a danger to the community or risk of flight sufficient to warrant continued physical incarceration.

Such prolonged proceeding does not satisfy due process. See *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004).

V. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court grant the writ of habeas corpus and order his immediate release from custody. In the alternative, Petitioner requests that the Court order Respondents to provide a constitutionally compliant custody hearing.

Petitioner further requests that the Court declare his current detention unlawful, and grant such other relief as the Court deems just and proper.

VI. CONCLUSION

For months, No jurisdictional exhaustion requirement bars Petitioner's claims under 28 U.S.C. § 2241. To the extent prudential exhaustion principles apply, Petitioner has already invoked the available custody redetermination process. Petitioner requested a bond hearing and presented evidence in support of release.

The Immigration Judge never adjudicated that request because ICE transferred Petitioner before the hearing. Petitioner's challenge also presents legal and constitutional questions concerning the statutory authority for his detention and the process constitutionally required. Those questions are properly resolved by this Court.

Alternatively, any further exhaustion should be excused because requiring additional administrative proceedings would cause continued irreparable deprivation of Petitioner's physical liberty and would not resolve the legal issue concerning the statutory authority under which DHS claims the right to detain him.

Respectfully submitted,

Date: August 14, 2026

/s/ Roger Humberto Ponce, Jr.
ROGER HUMBERTO PONCE, Jr.
Attorney for Petitioner

Samuel Guillen Romero

Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned counsel has discussed with Petitioner the events described in this Petition and, on the basis of those discussions, verify that the statements in the Petition are true and correct to the best of her knowledge and belief.

/s/ Roger Humberto Ponce. Jr.
ROGER HUMBERTO PONCE, Jr.
Attorney for Petitioner
Samuel Guillen Romero