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**UNITED STATES DISTRICT COURT**

**FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

CARLOS ENRIQUE BRIONES AGUILAR (A# [redacted]),

Petitioner,

vs.

Todd BLANCHE, Acting Attorney General of the United States; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; David VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement; Patrick DIVVER, Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement; Jorge VELARDE, Assistant Field Office Director, U.S. Immigration and Customs Enforcement, Otay Mesa Detention Center; Christopher J. LaROSE, Senior Warden, Otay Mesa Detention Center,

Respondents.

Case No. '26CV4778 DMS VET

Agency No. [redacted]

**PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN FEDERAL CUSTODY UNDER 28 U.S.C. § 2241 AND APPLICATION FOR ORDER TO SHOW CAUSE**

**IMMIGRATION HABEAS, DETAINED**

## INTRODUCTION

1. Petitioner Carlos Enrique Briones Aguilar is a 34-year-old citizen and national of Ecuador. Three years ago, the Department of Homeland Security apprehended him at the border, placed him into removal proceedings, made the determination that he is not a flight risk nor danger to the community, and released him. He went to New York, filed a timely application for asylum that remains pending, obtained an Employment Authorization Document ("EAD") valid through October 27, 2029, worked, and appeared in immigration court. Upon information and belief, he has no criminal history of any kind, in this country or anywhere else. His next hearing was scheduled for December 2026.

2. On July 27, 2026, Immigration and Customs Enforcement officers arrested Petitioner at a bus stop in New Jersey. Upon information and belief, he was not the target of the operation. The officers approached him holding a photograph of a Guatemalan man whom Petitioner did not know and does not resemble. When they demanded identification, Petitioner produced a New York driver's license bearing his home address and showed them his Employment Authorization Document and Social Security card. The officers stood at the bus stop checking their phones. Whatever those checks returned would have confirmed his identity, his address, his work authorization, and his pending removal proceedings. They handcuffed him anyway.

3. Petitioner was transported to New Jersey and then, within days, across the country to the Otay Mesa Detention Center in this District, roughly 2,500 miles from his home, his community, and the immigration court where his case was pending. He has been confined for more than three weeks. In that time no immigration judge and no officer of Respondents have made any individualized determination that Petitioner presents a risk of flight or a danger to the community. Respondents already made that

determination when they released him years ago, and they can establish no changed circumstances to justify this unlawful re-detention.

4. When Respondents released Petitioner in 2023 and permitted him to remain at liberty while his removal proceedings ran their course, they decided that his liberty was consistent with the government's interests. Petitioner acquired a protected interest in that liberty, and Respondents could not revoke it without process. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

5. This Court has granted immediate release on these facts repeatedly and recently. *See Allaico Lliguicota v. Warden of Imperial Reg'l Det. Facility*, No. 3:26-cv-04131, Dkt. 7 (S.D. Cal. July 28, 2026); *L.R.S. v. Casey*, No. 3:26-cv-03926, Dkt. 9 (S.D. Cal. July 27, 2026); *Garrillo Victora v. Warden, Imperial Reg'l Det. Facility*, No. 3:26-cv-03604, Dkt. 12 (S.D. Cal. July 15, 2026); *Lopez-Zavala v. Divver*, No. 3:26-cv-02880, Dkt. 6 (S.D. Cal. May 19, 2026). In each, a noncitizen whom Respondents had released years earlier was re-detained during an ordinary encounter and held without any individualized determination. In each, this Court ordered immediate release.

6. Here, Petitioner holds an Employment Authorization Document that Respondents themselves issued and that does not expire until 2029. He filed his asylum application within his first year in the United States and it remains pending. He appeared in immigration court and resided at a fixed address. He did not miss any appointments or obligations.

7. Two further defects independently require release. Respondents arrested Petitioner without a warrant. The sole statutory exception permitting a warrantless immigration arrest requires that the arresting officer have reason to believe the person "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2). No officer could have formed that belief here. Petitioner gave the officers his address,

stood still, and did not resist, flee, or hide. Upon information and belief, Petitioner reports that within the same hour the same officers pursued three other men who did run, chasing and tackling them. The contrast is recorded in Respondents' own conduct. And the encounter that produced the arrest was itself a seizure unsupported by reasonable suspicion, initiated on no basis other than Petitioner's apparent ethnicity.

8. Petitioner asks this Court to order his immediate release and to enjoin Respondents from re-detaining him without first providing notice and a bond hearing before an immigration judge, held before any re-detention, at which the government bears the burden of justifying any renewed deprivation of his liberty.

9. Further, he requests that Respondents respond within three days pursuant to 28 U.S.C. § 2243, or on such schedule as the Court sets, and that Respondents be barred from transferring him outside this District pending resolution.[1]

10. Additionally, he requests to be returned to the status quo ante, which is without GPS monitoring or SmartLINK technology, home visits, or any additional requirements of supervision. Further, he requests the return of his lawfully issued work permit and Social Security card and any other property seized at the time of apprehension.

## JURISDICTION AND VENUE

[1] Petitioner previously filed a pro se petition for writ of habeas corpus in this District, *Briones Aguilar v. Acting Field Office Director of San Diego and Customs Enforcement*, No. 3:26-cv-04602-AGS-SBC (S.D. Cal.), filed August 11, 2026. On August 13, 2026, the Court dismissed that petition without prejudice for failure to name the warden as a respondent and failure to pay the filing fee, and granted leave to file an amended petition by September 11, 2026. Dkt. 2. No claim was adjudicated on the merits. Petitioner elects to proceed by this new Petition, filed through counsel, which names his immediate physical custodian and is accompanied by the filing fee. Petitioner notes the prior case for the Court's information and does not contend it bars or limits any claim raised here.

11. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.* This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Relief is available under 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

12. Sections 1252(g), (a)(5), and (b)(9) of Title 8 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); *Pacheco v. LaRose*, No. 3:25-cv-2421-JO-AHG, 2026 WL 242300, at *2–*5 (S.D. Cal. Jan. 29, 2026). This Court has so held in each of the orders described below. Petitioner does not challenge the commencement or adjudication of his removal proceedings, nor the execution of any removal order. He challenges only the lawfulness of his present physical confinement. "[C]laims that are independent of or collateral to the removal process do not fall within the scope of § 1252(b)(9)." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016). Section 1252(g) "does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders." *Ibarra-Perez v. United States*, 154 F.4th 989, 997 (9th Cir. 2025).

13. Section 1226(e) forecloses review only of the Attorney General's discretionary judgments. It does not bar habeas review of whether detention is authorized at all, or whether the procedures attending it satisfy the Constitution. *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).

14. Venue is proper in this District. Petitioner is detained at the Otay Mesa Detention Center in San Diego County and his immediate custodian is located here. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). A substantial part of the events and omissions

giving rise to Petitioner's claims, including his continuing confinement, occurred in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

15. The Court must grant the writ or issue an order to show cause "forthwith," and must require a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243. The writ is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). "[T]he traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

## PARTIES

16. Petitioner Carlos Enrique Briones Aguilar ([redacted]) is a citizen and national of Ecuador, detained at the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, CA 92154, in the custody and under the direct control of Respondents and their agents.

17. Respondent Todd Blanche is sued in his official capacity as Acting Attorney General of the United States. He oversees the Executive Office for Immigration Review, which administers the immigration courts and the Board of Immigration Appeals. He is a legal custodian of Petitioner.

18. Respondent Markwayne Mullin is sued in his official capacity as Secretary of Homeland Security. He is responsible for enforcement of the INA and oversees U.S. Immigration and Customs Enforcement, the component responsible for Petitioner's detention. He is a legal custodian of Petitioner.

19. Respondent David J. Venturella is sued in his official capacity as the Senior Official Performing the Duties of the Director of ICE. He is a legal custodian of Petitioner.

20. Respondent Patrick Divver is sued in his official capacity as Field Office Director of the San Diego ICE Field Office. He is a legal custodian of Petitioner and has authority to release him.

21. Respondent Jorge Velarde is sued in his official capacity as Assistant Field Office Director of ICE at the Otay Mesa Detention Center. He is a legal custodian of Petitioner and has direct authority to release him.

22. Respondent Christopher J. LaRose is sued in his official capacity as Senior Warden of the Otay Mesa Detention Center. He is Petitioner's immediate physical custodian and has direct authority to release him.

## STATEMENT OF FACTS

***Respondents Determined that Petitioner Merited Release***

23. Petitioner was born on [redacted] in Ecuador. Robinson Decl. ¶ 3.

24. Petitioner entered the United States without inspection on or about August 2, 2023, at or near Lukeville, Arizona. Ex. A, Notice to Appear at 1. He was apprehended by immigration officials and held for approximately one day. Robinson Decl. ¶ 3.

25. On August 2, 2023, the Department of Homeland Security issued Petitioner a Notice to Appear, Form I-862, charging him as removable under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as a noncitizen present in the United States without being admitted or paroled. Ex. A, Notice to Appear at 1. The Notice to Appear commenced removal proceedings under section 240 of the INA and designated the immigration court at 26 Federal Plaza in New York, New York, setting an initial hearing for February 14, 2024. *Id.*

26. On the face of that document, Respondents designated Petitioner as "an alien present in the United States who has not been admitted or paroled," and did not designate him as "an arriving alien." Ex. A, Notice to Appear at 1. Section 212(a)(6)(A)(i) is the sole

charged ground, and it does not appear among the grounds enumerated in 8 U.S.C. § 1226(c)(1).

27. Rather than detain Petitioner, Respondents released him. Ex. B; Robinson Decl. ¶ 5. That release was not a default or an oversight, but a reasoned custody determination on the part of Respondents. Upon information and belief, after electing to release him, Respondents did not place Petitioner on electronic monitoring.

28. That determination also fixes the statutory framework governing Petitioner's custody. Respondents processed Petitioner under the discretionary detention authority of 8 U.S.C. § 1226(a), and they exercised that authority in his favor. Ex. B.

***Petitioner Complied with Every Obligation for Three Years***

29. Petitioner went to Staten Island, New York. He lived at the same address, [redacted], for the entire three years that followed, the address Respondents themselves recorded on the Notice to Appear. Ex. A, Notice to Appear; Robinson Decl. ¶ 6.

30. Petitioner filed an application for asylum, withholding of removal, and protection under the Convention Against Torture within his first year in the United States, satisfying the one-year deadline of 8 U.S.C. § 1158(a)(2)(B). That application remains pending. Ex. C.

31. Petitioner fled Ecuador after suffering threats and physical harm [redacted] He fears for his life and has every intention of zealously pursuing his fear claim. Robinson Decl. ¶ 7.

32. On October 28, 2024, USCIS approved Petitioner's application for employment authorization and issued him an Employment Authorization Document in category (c)(8), valid through October 27, 2029. Ex. D; Robinson Decl. ¶ 8.

33. Obtaining that document required Petitioner to submit to a second round of vetting. He disclosed his identity, his address, and his immigration and criminal history, appeared and provided biometric data, and was screened against national and international law-enforcement, criminal, and national-security databases. Robinson Decl. ¶ 8. Respondents thus again vetted Petitioner and concluded that he could remain at liberty.

34. Petitioner also obtained a Social Security card and a New York State driver's license bearing his Staten Island address.

35. Petitioner appeared at his scheduled hearings before the New York Immigration Court and was never found to have failed to appear.

36. Petitioner worked as a day laborer and was connected to a community of neighbors and friends on Staten Island, including the friend with whom he lived. He has no criminal history in the United States or in any other country.

37. Petitioner was also receiving ongoing medical care. At the time of his arrest he was in physical therapy for a shoulder injury sustained in a car accident several months earlier. That treatment stopped when he was detained, and he continues to experience pain and limited mobility in the shoulder.

38. For three years, then, Respondents knew who Petitioner was, where he lived, that he was authorized to work, that he had a pending application for relief, and that he was appearing in immigration court. During that entire period Respondents took no step to detain him, and no fact emerged that would have justified doing so.

***Respondents Re-Detained Petitioner During What is Likely a Collateral Enforcement Operation***

39. On July 27, 2026, Petitioner was waiting for a bus at a bus stop in New Jersey, having gone to the office of a personal injury attorney recommended by his physical

therapist. He was alone, in ordinary clothing, doing nothing that would draw attention.

40. Two vehicles pulled up in front of the bus stop and blocked Petitioner in. Four men got out. They wore green vests marked "ICE." They approached Petitioner and surrounded him.

41. One of the officers showed Petitioner a photograph of a man on his phone, told him the man was Guatemalan, and asked whether Petitioner knew him. Petitioner did not know him. Robinson Decl. ¶ 11.

42. An officer then asked Petitioner where he was from. Petitioner was surrounded, with vehicles blocking his path, and there was nowhere he could go. Petitioner did not believe he was free to leave or to decline to answer.

43. The officers directed Petitioner to produce identification. He produced his New York State driver's license, which bears his Staten Island home address. The officers checked something on their phones. Robinson Decl. ¶ 11.

44. The officers asked Petitioner how he had entered the country and whether he had papers. He told them he had entered at the border and that he did have papers, and he showed them his Employment Authorization Document and his Social Security card.

45. The officers looked up something further on their phones. They asked Petitioner no other questions.

46. Whatever the officers' checks returned, it can only have confirmed what Petitioner had already told them: that he was who he said he was, that he lived at a fixed address in Staten Island, that USCIS had granted him employment authorization valid for three more years, and that he was a respondent in pending removal proceedings before the New York Immigration Court with a hearing scheduled for December

2026. Respondents did not lack information about Petitioner and should have let him go following the encounter.

47. Upon information and belief, at no point during the encounter did Petitioner resist, flee, hide, or make any attempt to do so.

48. The officers pulled Petitioner's hands behind his back, handcuffed him, and placed him in one of the vehicles.

49. Upon information and belief, Respondents had no warrant for Petitioner's arrest and did not issue a Form I-200, Warrant of Arrest, before arresting him. *See* 8 C.F.R. § 236.1(b). To the extent Respondents produce a Form I-200 in these proceedings, it was likely created after Petitioner had already been arrested, transported, and taken into custody, and it therefore did not and could not authorize the arrest that preceded it.

50. Rather than transport Petitioner for processing, the officers drove him around the surrounding neighborhood for a period, not appearing to travel toward any particular destination. Robinson Decl. ¶ 13.

51. Upon information and belief, during that drive, the two vehicles pulled up on three Latino men walking together on a sidewalk, one vehicle stopping in front of the men and the other behind, blocking them in. All four officers got out and chased the men. They tackled one to the ground and pushed another against a car.

52. The officers then took Petitioner and the two men they had apprehended to a parking lot, seized their belongings, placed chains on their feet and waists, and transported them to a detention facility.

***Respondents Transferred Petitioner Across the Country and Have Held Him Without any Individualized Determination***

53. Petitioner was held at Delaney Hall in Newark, New Jersey for approximately one week. Robinson Decl. ¶ 14.

54. On or about August 1, 2026, Respondents transferred Petitioner to the Otay Mesa Detention Center in San Diego, California, approximately 2,500 miles from his home, from the community in which he had lived for three years, and from the immigration court in which his removal proceedings are pending. He remains detained there. Robinson Decl. ¶ 14.

55. Upon information and belief, Respondents have made no new custody determination since re-detaining Petitioner. No document served on Petitioner reflects any individualized assessment of whether he poses a danger to persons or property or is likely to appear for future proceedings, as 8 C.F.R. § 1236.1(c)(8) requires.

56. Nor could Respondents make any such showing, because nothing about Petitioner changed between his release and his re-detention. Respondents assessed his flight risk and dangerousness in 2023 and released him. They assessed him again in 2024 when they granted him employment authorization through 2029. Between those determinations and July 27, 2026, Petitioner committed no offense, was charged with none, violated no condition of his release, missed no hearing, and moved no residence. The record discloses no changed circumstance of any kind. What changed was not Petitioner but Respondents' enforcement priorities, and a change in enforcement priorities is not an individualized determination.

## LEGAL FRAMEWORK

### *Petitioner is Detained Under § 1226(a)*

57. The INA prescribes distinct detention frameworks. Section 1226(a) provides for discretionary detention with the possibility of release on bond; § 1226(c) mandates detention of noncitizens charged with or convicted of enumerated offenses; § 1225(b)

governs mandatory detention of noncitizens subject to expedited removal and of other applicants for admission; and § 1231 governs post-order detention.

58. Petitioner is subject to § 1226(a). Respondents processed and released him under that authority in 2023. Ex. B. In any event, this Court has repeatedly held that a noncitizen "is subject to the discretionary detention framework of § 1226, not § 1225(b)(2), because he was already residing in the United States at the time of his arrest." *Allaico Lliguicota*, No. 3:26-cv-04131, Dkt. 7 ¶ 2; *accord L.R.S.*, No. 3:26-cv-03926, Dkt. 9 ¶ 2; *Garrillo Victora*, No. 3:26-cv-03604, Dkt. 12 ¶ 2; *Lopez-Zavala*, No. 3:26-cv-02880, Dkt. 6 ¶ 2; *see Esquivel Pacheco*, 818 F. Supp. 3d at 1174–75. The Ninth Circuit has since confirmed that noncitizens present without admission who are apprehended in the interior of the United States are subject to § 1226 rather than § 1225(b)(2)(A). *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir. July 30, 2026); *see also Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc); *Jennings*, 583 U.S. at 287–89.

59. Petitioner is not subject to mandatory detention under § 1226(c). The sole charged ground, INA § 212(a)(6)(A)(i), does not appear among the grounds enumerated in § 1226(c)(1).

60. Section 1226(a) "and its implementing regulations provide extensive procedural protections that are unavailable under other detention provisions, including several layers of review of the agency's initial custody determination, an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing when circumstances materially change." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022).

61. Those protections operate in sequence. An officer may arrest and take a noncitizen into custody "under the authority of Form I-200, Warrant of Arrest," issued upon supervisory review. 8 C.F.R. § 236.1(b). A DHS officer then conducts an initial custody determination and must release the noncitizen if he demonstrates that release "would not pose a danger to property or persons" and that he "is likely to appear for any future proceeding." *Id.* § 1236.1(c)(8). Where an arrest is made without a warrant, a determination whether the noncitizen "will be continued in custody or released on bond or recognizance" must be made within 48 hours of the arrest, absent an emergency or other extraordinary circumstance. *Id.* § 287.3(d). Only after the initial custody determination may the noncitizen seek review before an immigration judge. *Id.* §§ 1236.1(d)(1), 1003.19.

***His Government-Granted Release Created a Protected Liberty Interest***

62. The Due Process Clause protects "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez*, 872 F.3d at 990. "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 v. Davis*, 533 U.S. 678, 690 (2001). In *Hernandez*, the Ninth Circuit recognized that a noncitizen's interest in freedom from physical confinement itself constitutes a core liberty interest protected by the Due Process Clause. And "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

63. An individual released from government custody on conditions has a protected liberty interest in that continued release. *Morrissey*, 408 U.S. at 482 (a grant of parole carries an "implicit promise" that liberty will be revoked only for violation of release

conditions); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (probation); *Young v. Harper*, 520 U.S. 143, 152 (1997) (pre-parole conditional supervision). "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." *Morrissey*, 408 U.S. at 482.

64. Those principles apply with at least equal force to noncitizens whom the government has permitted to remain at liberty during pending removal proceedings. *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) ("Given the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees in *Morrissey*."). This Court has applied *Morrissey* directly in this context, holding that a petitioner "acquired a protectable liberty interest when the government previously granted his release pending removal proceedings." *Allaico Lliguicota*, No. 3:26-cv-04131, Dkt. 7 ¶ 3.

65. "In the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).

66. Procedural due process is assessed under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), which weighs (1) "the private interest that will be affected by the [government] action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional procedural safeguards"; and (3) "the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail."

67. Substantive due process separately requires that all forms of civil detention bear a "reasonable relation" to a non-punitive purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *Demore v. Kim*, 538 U.S. 510, 519–20 (2003). "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective," *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

***Limits on Warrantless Immigration Arrests***

68. The warrant requirement of § 1226(a) is the rule; warrantless arrest is a narrow exception. Section 1226(a) authorizes arrest and detention "[o]n a warrant issued by the Attorney General." Section 1357(a)(2) authorizes an immigration officer to arrest without a warrant only where the officer has "reason to believe that the alien so arrested is in the United States in violation of any such law or regulation *and* is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2) (emphasis added). The implementing regulation imposes the same two requirements. 8 C.F.R. § 287.8(c)(2)(ii). The Supreme Court has described this authority as a limited one. *Arizona v. United States*, 567 U.S. 387, 407 (2012); *see also Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

69. The two requirements are conjunctive and independent. The first concerns removability. The second concerns whether this person, on the facts known to the officer at the time, is likely to flee before a warrant can be obtained. A belief that a

person is removable cannot supply the escape element, because on that reading every person subject to a warrantless immigration arrest would satisfy both requirements automatically, the exception would swallow the warrant rule, and the words "and is likely to escape before a warrant can be obtained" would do no work.

70. The escape determination is necessarily individualized and necessarily antecedent. It is individualized because likelihood of flight depends on facts particular to the person: residence, employment, ties, and history. It is antecedent because the statute authorizes a warrantless arrest only where a warrant cannot be obtained in time, a judgment that must be made before the arrest rather than reconstructed afterward.

71. The "reason to believe" standard is equivalent to the probable cause standard of the Fourth Amendment. *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019). An arrest made in violation of these provisions is unlawful. *Sanchez v. Sessions*, 904 F.3d 643, 650 (9th Cir. 2018); *Perez Cruz*, 926 F.3d at 1137. Where the statutory precondition to the arrest was never satisfied, there is no lawful authority to hold the person in immigration custody, and release is required.

**THIS COURT HAS ORDERED IMMEDIATE RELEASE ON THESE FACTS**

72. This Court has repeatedly held that re-detaining a noncitizen whom the government previously released, without any individualized determination of flight risk or danger, violates the Fifth Amendment, and has ordered immediate release rather than a bond hearing as the remedy. The orders collected below are recent examples rather than an exhaustive list.

73. The pattern in each is the same. The petitioner entered without inspection, was released by DHS shortly after apprehension, lived in the United States for a period of years without incident, and was then re-detained during an ordinary encounter and held without a bond hearing. In each case this Court held that the petitioner acquired a

protectable liberty interest when the government granted the earlier release, that the government revoked that interest without an individualized determination of flight risk or danger, and that the absence of any such determination significantly risked an erroneous deprivation of liberty. In each case the Court ordered immediate release and enjoined re-detention absent a pre-deprivation bond hearing. *See Allaico Lliguicota*, No. 3:26-cv-04131, Dkt. 7 ¶¶ 3–4 (Ecuadorian national released on recognizance in December 2023 and re-detained in Buffalo, New York roughly three years later while on his way to work); *L.R.S.*, No. 3:26-cv-03926, Dkt. 9 ¶¶ 3–4 (petitioner released three days after entry, re-detained at a traffic stop, and held more than ten months); *Garrillo Victora*, No. 3:26-cv-03604, Dkt. 12 ¶¶ 3–4 (Venezuelan national released two days after entry and re-detained at a traffic stop approximately three years later); *Lopez-Zavala*, No. 3:26-cv-02880, Dkt. 6 ¶¶ 3–4 (Guatemalan national released roughly three weeks after entry, re-detained at a highway checkpoint, and held at the Otay Mesa Detention Center).

74. Petitioner's circumstances are materially identical. Like the petitioner in *Allaico Lliguicota*, he is an Ecuadorian national who entered without inspection in 2023, was released, was arrested by ICE in the New York area roughly three years later during the ordinary course of his day, and was transferred across the country to a California facility. Unlike that petitioner, Petitioner holds an Employment Authorization Document valid through 2029, has a timely-filed asylum application pending, appeared at his immigration court hearings, and produced identification bearing his home address to the arresting officers at the moment of his arrest.

75. In each of these cases the government filed a non-opposition to habeas relief. Petitioner respectfully submits that the same course is warranted here.

**EXHAUSTION IS NOT REQUIRED**

76. No statutory administrative exhaustion requirement applies to a habeas petition challenging immigration detention. *Singh v. Holder*, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011); *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). Any exhaustion requirement is prudential, and this Court has discretion to waive it. *Ward v. Chavez*, 678 F.3d 1042, 1045 (9th Cir. 2012); *Hernandez*, 872 F.3d at 988.

77. Prudential exhaustion is excused where further pursuit would be futile, where the agency lacks authority to grant effective relief, or where the administrative process would itself cause irreparable harm. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007); *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004); *Hernandez*, 872 F.3d at 987. Each ground is satisfied here.

78. Neither an immigration judge nor the Board of Immigration Appeals has authority to adjudicate Petitioner's constitutional claims. *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020); *Matter of C-*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992). Nor does either tribunal have authority to determine whether Respondents complied with 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8 when they seized Petitioner without a warrant, or whether the resulting custody is authorized at all.

79. The questions this Petition presents are questions of law. They require no development of an administrative record and draw on no agency expertise. *Hernandez*, 872 F.3d at 989. An immigration judge conducting a custody redetermination decides whether a detainee should be released on bond under the factors set out in *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (B.I.A. 2006). That proceeding does not reach, and could not resolve, whether Respondents possessed

authority to arrest Petitioner in the first instance, or whether they were entitled to revoke a liberty interest he already held without any process at all.

80. A bond hearing held now would in any event come too late. Petitioner's claim is that Respondents deprived him of an existing liberty interest without the process due before that deprivation. A hearing conducted after the fact is a post-deprivation remedy; it "cannot prevent an erroneous deprivation of liberty" that has already occurred. *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025). This Court has recognized as much, holding that "a pre-deprivation hearing is the more appropriate remedy for individuals like Petitioner who already enjoy a liberty interest," and that "[i]n order to prevent an erroneous deprivation of that existing liberty interest and satisfy due process requirements, this hearing must take place prior to any detention." *Allaico Lliguicota*, No. 3:26-cv-04131, Dkt. 7 ¶ 4.

81. Each day of continued detention is itself an irreparable injury. "Deprivation of physical liberty by detention constitutes irreparable harm." *Arevalo v. Hennessy*, 882 F.3d 763, 767 (9th Cir. 2018). The Ninth Circuit has likewise recognized the "irreparable harms imposed on anyone subject to immigration detention." *Hernandez*, 872 F.3d at 995.

## CLAIMS FOR RELIEF

## COUNT ONE

**Violation of the Fifth Amendment, Procedural Due Process: Revocation of an Existing Liberty Interest Without Any Individualized Determination**

82. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

83. When Respondents released Petitioner from custody in August 2023 and permitted him to remain at liberty for the three years that followed, Petitioner acquired a

protected liberty interest in that continued release. *Morrissey*, 408 U.S. at 482; *Ortega*, 415 F. Supp. 3d at 969–70; *Allaico Lliguicota*, No. 3:26-cv-04131, Dkt. 7 ¶ 3. That release carried "an implicit promise" that his liberty would be revoked only if he failed to live up to the conditions on which it was granted. *Morrissey*, 408 U.S. at 482.

84. Petitioner failed to live up to no condition. He remained at the address Respondents recorded. He filed his asylum application and pursued it. He obtained and maintained employment authorization. He appeared at his hearings. Respondents have never alleged otherwise.

85. Respondents revoked that liberty interest on July 27, 2026 without notice, without explanation, without any opportunity for Petitioner to be heard, and without any determination by any officer or neutral decisionmaker that his re-detention was justified.

86. All three *Mathews* factors favor Petitioner. *Mathews*, 424 U.S. at 335.

87. *First*, the private interest is the most fundamental the Due Process Clause protects. "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. Petitioner's interest is heightened because he did not merely hope for liberty. He held it, by the government's own grant, for three years.

88. *Second*, the risk of erroneous deprivation is severe, because Petitioner received no procedural protection whatsoever. "The absence of any individualized determination significantly risk[s] erroneously depriving Petitioner of his liberty interest." *Allaico Lliguicota*, No. 3:26-cv-04131, Dkt. 7 ¶ 3; *see* 8 C.F.R. § 1236.1(c)(8). The record contains no evidence that Petitioner has a criminal history, poses a danger to the

community, or presents a flight risk, and Respondents have articulated no individualized justification for his continued detention.

89. The re-detention posture makes that risk acute rather than theoretical. Respondents are not being asked to predict Petitioner's behavior from an empty record. They have already made the prediction twice, in 2023 and again in 2024, and three years of Petitioner's actual conduct have confirmed it. A process that reverses a twice-made judgment, against three years of confirming evidence, without articulating a single changed fact, cannot be trusted to distinguish those who should be detained from those who should not.

90. The facts of the arrest itself illustrate the point. Respondents did not fail to detain Petitioner for want of information. They had his driver's license with his home address in hand, his Employment Authorization Document, and his Social Security card. They ran him through their systems on the spot. Every fact bearing on flight risk was available to them at the moment of the arrest, and every such fact pointed the same way. They detained him regardless.

91. *Third*, the government's interest in bypassing pre-deprivation process is minimal. Respondents managed Petitioner's appearance for three years without detaining him and without electronic monitoring. Bond hearings are routine and impose negligible administrative burden. Respondents "ha[ve] offered no evidence that the burdens of providing such process would outweigh this substantial liberty interest." *Allaico Lliguicota*, No. 3:26-cv-04131, Dkt. 7 ¶ 3.

92. Respondents thus violated Petitioner's Fifth Amendment due process rights "by revoking his release without an individualized determination of flight risk or danger to the public," and Petitioner "has been subjected to unconstitutional detention" since July 27, 2026. *Id.* He is entitled to immediate release.

## COUNT TWO

**Violation of the Fifth Amendment, Substantive Due Process: Re-Detention Bearing No Reasonable Relation to a Permissible Purpose**

93. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

94. Immigration detention is constitutionally permissible only where it bears a "reasonable relation" to a legitimate non-punitive purpose: ensuring the noncitizen's appearance during removal proceedings, or preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *Demore*, 538 U.S. at 519–20; *Jackson*, 406 U.S. at 738.

95. Petitioner's re-detention serves neither purpose. Respondents' own three-year course of conduct establishes that he is neither a flight risk nor a danger. They knew his identity, his address, his employment authorization, and his hearing schedule throughout, and elected not to detain him. Nothing changed between August 2023 and July 27, 2026. Petitioner committed no offense, violated no condition, missed no hearing, and moved no residence. The only thing that changed is that officers conducting an enforcement operation aimed at someone else encountered him at a bus stop.

96. Where the government has already determined that a person may remain at liberty, and that person has done nothing to disturb the basis for that determination, re-detention is not reasonably related to securing his appearance. It is the reversal of a judgment the government made and has never explained abandoning.

97. Detention imposed as the collateral consequence of an operation directed at another individual, without any assessment of the detained person's own flight risk or dangerousness, is likewise not reasonably related to either permissible purpose.

Petitioner was not the target. The officers approached him about a photograph of a man he did not know, and when that inquiry came to nothing, they arrested him anyway. Nothing about that sequence serves a regulatory objective.

98. Detention that serves no permissible regulatory purpose is punitive, and civil detention may not be punitive. *Bell*, 441 U.S. at 535; *Chhoeun v. Marin*, 306 F. Supp. 3d 1147, 1160–61 (C.D. Cal. 2018).

99. Petitioner's continued confinement is "the exercise of power without any reasonable justification in the service of a legitimate government objective." *Cnty. of Sacramento*, 523 U.S. at 846. It violates substantive due process, and immediate release is required.

**COUNT THREE**

**Violation of 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii): Warrantless Arrest Without Any Determination of Likelihood of Escape**

100. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

101. Section 1226(a) authorizes arrest and detention "[o]n a warrant issued by the Attorney General." Respondents had no warrant for Petitioner's arrest.

102. An immigration officer may arrest a noncitizen without a warrant only where the officer has reason to believe the person is in the United States in violation of law "and is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(ii); *see Arizona*, 567 U.S. at 407.

103. Respondents made no determination that Petitioner was likely to escape before a warrant could be obtained, and no such determination could have been supported on the facts known to them.

104. Petitioner gave the arresting officers a New York driver's license bearing his home address, the same address Respondents had recorded on his Notice to Appear three years earlier. He gave them an Employment Authorization Document valid for three more years and a Social Security card. He did not resist, flee, hide, or make any attempt to do so.

105. Respondents asked Petitioner no question bearing on his likelihood of flight. A determination that depends on facts particular to the person cannot be made by officers who declined to learn any of them, particularly where the person was volunteering those facts.

106. These officers also demonstrated, within the hour, that they knew the difference between someone likely to escape and someone who was not. Confronted with men who ran, they gave chase and physically restrained them. Petitioner they had simply asked for identification, and he produced it.

107. An arrest made in violation of these provisions is unlawful. *Sanchez*, 904 F.3d at 650; *Perez Cruz*, 926 F.3d at 1137. Issuance of a warrant, or an individualized determination of likelihood of escape, is a necessary condition of the authority to detain under § 1226(a). Because Respondents satisfied neither, there is no statutory or regulatory authority for Petitioner's custody, and immediate release is required.

108. A warrant generated after the fact does not cure the defect. Section 1226(a) authorizes an arrest made "[o]n a warrant," and 8 C.F.R. § 236.1(b) authorizes an arrest made "under the authority of" a Form I-200, language presupposing a warrant already in existence at the time of arrest. Where the § 1357(a)(2) precondition was never satisfied, a subsequently generated Form I-200 documents the custody; it does not retroactively supply the authority that was missing when Respondents seized Petitioner.

## COUNT FOUR

**Violation of the Fourth Amendment and 8 C.F.R. § 287.8(b)(2): Seizure and Re-Arrest Without Probable Cause**

109. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

110. The Fourth Amendment protects the right of persons present in the United States to be free from unreasonable seizures by government officials. This protection applies in full to immigration enforcement actions.

111. Petitioner was seized at the moment the officers blocked him in and surrounded him. A person is seized under the Fourth Amendment when, "in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." *United States v. Mendenhall*, 446 U.S. 544, 554 (1980); *see Brendlin v. California*, 551 U.S. 249, 254 (2007). No reasonable person in Petitioner's circumstances would have believed he was free to leave or to decline to answer, and Petitioner did not believe it.

112. An immigration officer may briefly detain a person for questioning only where the officer has "reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is [a noncitizen] illegally in the United States." 8 C.F.R. § 287.8(b)(2).

113. Respondents can identify no specific articulable fact concerning Petitioner that preceded the seizure. Petitioner was standing alone at a public bus stop in ordinary clothing, waiting for a bus. He was doing nothing unlawful and nothing unusual. Respondents had no prior knowledge of him, no lead, no surveillance, and no record identifying him before the encounter.

114. The only characteristic distinguishing Petitioner from the other people at that bus stop was his apparent ethnicity. Apparent ethnicity cannot supply reasonable suspicion. *United States v. Montero-Camargo*, 208 F.3d 1122, 1135 (9th Cir. 2000) (en banc) (Hispanic appearance "is, in general, of such little probative value that it may not be considered as a relevant factor where particularized or individualized suspicion is required"); *United States v. Brignoni-Ponce*, 422 U.S. 873, 886 (1975); *see Sanchez*, 904 F.3d at 656.

115. The Fourth Amendment also prohibits government officials from conducting repeated arrests on the same probable cause absent intervening cause. "It is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable . . . . Further seizure requires a court order or new cause; the original probable cause determination is no justification." *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) (cleaned up).

116. In the immigration context, this means that a person whom immigration authorities previously released from custody cannot be re-arrested "solely on the ground that he is subject to removal proceedings" and without some new, intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). Courts have long recognized that permitting such re-arrests could result in "harassment by continual rearrests." *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971).

117. The probable cause on which Respondents arrested Petitioner on July 27, 2026 is the identical probable cause Respondents possessed on August 2, 2023, when they charged him with precisely that and released him. Petitioner engaged in no new conduct, violated no condition, and gave Respondents no new cause.

118. Respondents' seizure and arrest of Petitioner was unreasonable in violation of the Fourth Amendment.

**COUNT FIVE**

**Violation of the INA, 8 U.S.C. § 1226(a), and Its Implementing Regulations**

119. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

120. Petitioner's detention is governed by 8 U.S.C. § 1226(a). Respondents processed and released him under that authority in 2023. Ex. B.

121. Section 1226(a) and its implementing regulations prescribe a sequence of protections, each of which Respondents disregarded.

122. Respondents arrested Petitioner without a Form I-200, Warrant of Arrest, in violation of 8 C.F.R. § 236.1(b), and without satisfying the sole statutory exception in 8 U.S.C. § 1357(a)(2).

123. Respondents made no individualized custody determination assessing whether Petitioner's release "would not pose a danger to property or persons" and whether he "is likely to appear for any future proceeding," as 8 C.F.R. § 1236.1(c)(8) requires. Upon information and belief, no document served on Petitioner since his re-detention reflects consideration of the factors § 1236.1(c)(8) prescribes or identifies any fact about Petitioner bearing on danger or flight risk.

124. Upon information and belief, Respondents made no determination within 48 hours of the warrantless arrest whether Petitioner "will be continued in custody or released on bond or recognizance," in violation of 8 C.F.R. § 287.3(d).

125. An agency is bound to follow its own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954). A violation warrants relief where the regulation serves a purpose of benefit to the noncitizen and the violation prejudiced

interests the regulation protects. *United States v. Calderon-Medina*, 591 F.2d 529, 531 (9th Cir. 1979); *see Sanchez*, 904 F.3d at 649–50. Both conditions are met. The custody-determination regulations exist to ensure that a noncitizen is not confined absent a finding of danger or flight risk, and their breach has cost Petitioner more than three weeks of physical liberty with no such finding ever made.

126. Detention is neither a required nor an exclusive means of securing Petitioner's appearance. Respondents may permit a noncitizen to remain at liberty pending removal proceedings, and where they have concerns about appearance they may impose conditions of supervision. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 1236.1(c)(8), (d). Respondents did exactly that for three years. They have never contended that any condition short of confinement would now be inadequate, because they never considered the question.

**REMEDY: IMMEDIATE RELEASE AND AN INJUNCTION AGAINST RE-DETENTION**

127. Immediate release, rather than a bond hearing, is the appropriate remedy. This Court has ordered immediate release in each of the cases described above, and has done so even where the government offered a bond hearing as the remedy.

128. Because Petitioner's re-detention has been unlawful from its inception, the appropriate remedy is to restore the status quo that preceded it. "[T]he purpose of habeas remedies is to put the defendant back in the position he would have been in if the constitutional violation never occurred." *Lujan v. Garcia*, 734 F.3d 917, 935 (9th Cir. 2013) (cleaned up); *see United States v. Morrison*, 449 U.S. 361, 364 (1981) ("remedies should be tailored to the injury suffered"). That position is liberty on the terms Respondents themselves granted in August 2023 and sustained for three years:

no electronic monitoring, no GPS or SmartLINK tracking, no home visits, and no conditions not previously imposed.

129. This Court is authorized to dispose of habeas matters "as law and justice require." 28 U.S.C. § 2243; *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987); *Lujan*, 734 F.3d at 933.

130. Release alone would not afford complete relief, because it would leave Respondents free to re-detain Petitioner on the same unlawful basis. This Court should therefore further enjoin Respondents from re-detaining Petitioner without first providing notice and a pre-deprivation bond hearing before an immigration judge, held before any re-detention rather than after it. *See Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008) (while habeas relief commonly includes release from physical imprisonment, "depending on the circumstances, more [relief] may be required"); *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010); *Clark v. Martinez*, 543 U.S. 371, 376 n.3 (2005); *Aceros v. Kaiser*, No. 25-cv-06924-EMC, 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*, No. 1:26-cv-00010-TLN-DMC, 2026 WL 19105, at *5 (E.D. Cal. Jan. 3, 2026).

131. This Court has entered precisely that relief in each of the orders described above: "[w]hile § 1226 allows the government to hold a noncitizen in custody while it decides whether to initially grant release, a pre-deprivation hearing is the more appropriate remedy for individuals like Petitioner who already enjoy a liberty interest. In order to prevent an erroneous deprivation of that existing liberty interest and satisfy due process requirements, this hearing must take place prior to any detention." *Allaico Lliguicota*, No. 3:26-cv-04131, Dkt. 7 ¶ 4; *accord L.R.S.*, No. 3:26-cv-03926,

Dkt. 9 ¶ 4; *Garrillo Victora*, No. 3:26-cv-03604, Dkt. 12 ¶ 4; *Lopez-Zavala*, No. 3:26-cv-02880, Dkt. 6 ¶ 4.

132. At any such hearing the government must bear the burden of justifying detention by clear and convincing evidence. *Sadeqi v. LaRose*, 809 F. Supp. 3d 1090, 1095 (S.D. Cal. 2025); *Singh*, 638 F.3d at 1203, *abrogated on other grounds by Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Martinez v. Clark*, 124 F.4th 775, 785–86 (9th Cir. 2024).

## PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Issue an order to show cause requiring Respondents to respond within three days pursuant to 28 U.S.C. § 2243, or on such other schedule as the Court sets;

c. Order that Respondents not transfer Petitioner outside the Southern District of California during the pendency of this Petition;

d. Declare that Petitioner's arrest and continued detention are unlawful, and that his detention is governed by 8 U.S.C. § 1226(a);

e. Issue a writ of habeas corpus ordering Respondents to release Petitioner immediately, and in no event more than forty-eight (48) hours after this Court's order, and to restore him to the conditions of liberty Respondents themselves granted in August 2023, without GPS monitoring, SmartLINK or other electronic monitoring, home visits, or any other restraint not previously imposed on him, and to return to him all property and documents confiscated upon his arrest, including his Employment Authorization Document and Social Security card;

f. Order Respondents to file a status report confirming Petitioner's release, and any conditions of supervision imposed, within forty-eight (48) hours of his release;

g. Enjoin Respondents from re-detaining Petitioner without first providing at least seven (7) days' notice and a bond hearing before an immigration judge, held prior to any re-detention, at which the government bears the burden of establishing by clear and convincing evidence that Petitioner is a danger to the community or a risk of flight and that no condition or combination of conditions of release would reasonably assure his appearance and the safety of the community;

h. Award Petitioner reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

i. Grant such other and further relief as this Court deems just and proper.

Dated: August 20, 2026

Respectfully submitted,

*/s/ Emily L. Robinson*

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

I, Emily L. Robinson, am an attorney admitted to practice law in the State of California and represent Petitioner, Carlos Enrique Briones Aguilar. Because many of the allegations of this Petition require legal knowledge not possessed by Petitioner, I make this verification on his behalf. I have read the foregoing Petition for Writ of Habeas Corpus and verify under penalty of perjury under the laws of the United States that the factual statements made therein are true and correct to the best of my knowledge, information, and belief.

Dated: August 20, 2026

Respectfully submitted,

*/s/ Emily L. Robinson*

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