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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11
12 GONZALO GARCIA RUELAS, Petitioner,
13
14 vs.

15 CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center;
16 United States Immigration and Customs
Enforcement; KRISTI NOEM, Secretary,
17 United States Department of Homeland
Security; PAMELA BONDI, United
18 States Attorney General; TODD LYONS,
Acting Director, Immigration and
Customs Enforcement; GREGORY J.
19 ARCHAMBEAULT, Director, San Diego
Field Office, Immigration and Customs
Enforcement and Removal Operations;
20 U.S. Department of Homeland Security,
21

22 Respondents.

23 Case No. **'25CV2798 BTM BJW**

24 **PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C.
§ 2241**

25 **PETITIONER'S DHS NO: A #**

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PETITION FOR WRIT OF HABEAS CORPUS
Case No.

1 **INTRODUCTION**

2 1. Petitioner Gonzalo Garcia Ruelas (A # [REDACTED]) ("Mr. Garcia Ruelas")
3 is in the physical custody of Respondents at Otay Mesa Detention Center ("OMDC") in
4 San Diego, California where he is being unlawfully detained.

5 2. The Department of Homeland Security ("DHS") and the Executive Office for
6 Immigration Review ("EOIR") have improperly kept Mr. Garcia Ruelas detained,
7 contending that his detention is lawful under 8 C.F.R. § 1003.19(i)(2), which stays release
8 on bond where Respondents have appealed a bond grant expressly decided by an
9 Immigration Judge ("IJ"). By holding Mr. Garcia Ruelas in this unwarranted manner,
10 Respondents have effectively concluded that Mr. Garcia Ruelas, despite being a resident
11 of the United States since the 1980s, should be deemed to be seeking admission to the
12 United States and therefore subject to mandatory detention during the removal hearing
13 process pursuant to 8 U.S.C. § 1225(b)(2)(A). Decades of case law, legislation, and agency
14 interpretation support Mr. Garcia Ruelas' contention that he is subject to discretionary (i.e.,
15 non-mandatory) detention under 8 U.S.C. § 1226(a)—and that under a discretionary
16 standard, he should be released immediately.

17 3. Neither of the aforementioned reasons warrant Mr. Garcia Ruelas' continued
18 detention. First, courts have found that the automatic stay provision, 8 C.F.R.
19 § 1003.19(i)(2), violates the Fifth Amendment because it undermines the presumption of
20 liberty and deprives noncitizens of an individualized review of their custody determination.
21 *See e.g., Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025). As for
22 Respondents' second reason, the DHS's policy of claiming noncitizens apprehended and
23 detained within the United States are subject to § 1225 mandatory detention is blatantly
24 contradictory to years of case law, DHS and ICE enforcement practices, legislative
25 interpretation, and the plain statutory language of the Immigration and Nationality Act
26 ("INA"). For every day that Respondents continue to detain Mr. Garcia Ruelas, they are
27 violating his constitutional and statutory rights. For the reasons argued below, this Court

1 should grant Mr. Garcia Ruelas' writ and release him immediately in accordance with the
2 IJ's determination.

3 **JURISDICTION**

4 4. This Court has subject matter jurisdiction over this matter pursuant to 28
5 U.S.C. § 2241 (Habeas Corpus), 28 U.S.C § 1651 (All Writs Act), and 28 U.S.C § 1331
6 (Federal Question). This Court also has jurisdiction pursuant to Article I, Section 9, clause
7 2 of the United States Constitution (the Suspension Clause); *INS v. St. Cyr*, 533 U.S. 289,
8 300 (2001).

9 5. This Court may grant relief pursuant to 28 U.S.C. §§ 2241 and 2243, the
10 Declaratory Judgment Act, 28 U.S.C. §§ 2201, *et seq.*, the All Writs Act, 28 U.S.C. § 1651,
11 the Fifth Amendment, Fed. R. Civ. P. 65 (Injunctive Relief), and 5 U.S.C. §§ 500, *et seq.*,
12 the Administrative Procedure Act (“APA”).

13 **VENUE**

14 6. Venue is proper in the Southern District of California pursuant to 28 U.S.C.
15 § 1391(e) because Respondents are employees, officers, and agencies of the United States,
16 and because a substantial part of the events or omissions giving rise to the claims occurred
17 in the Southern District of California.

18 7. Furthermore, pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*,
19 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the
20 Southern District of California, the judicial district in which Mr. Garcia Ruelas is currently
21 detained.

22 **PARTIES**

23 **Petitioner**

24 8. Mr. Garcia Ruelas was detained by Immigration and Customs Enforcement
25 (“ICE”) agents on June 28, 2025, while at his place of work in Covina, California. He has
26 been in immigration detention at OMDC in San Diego, California since shortly after being
27 apprehended. He is a 63-year-old man, in the midst of a battle with aggressive prostate
28

1 cancer, who has continuously resided in and called the United States his home for over
2 three decades.

3 **Respondents**

4 9. Respondent Christopher J. LaRose is the Senior Warden of OMDC in San
5 Diego, California, where Mr. Garcia Ruelas is being detained.

6 10. Respondent Kristi Noem is the Secretary of the Department of Homeland
7 Security. She is responsible for the implementation and enforcement of the Immigration
8 and Nationality Act and oversees ICE, which is responsible for Mr. Garcia Ruelas'
9 detention.

10 11. Respondent Pamela Bondi is the Attorney General of the United States. She
11 is responsible for the Department of Justice, of which the Executive Office for Immigration
12 Review and the immigration court system it operates is a component agency.

13 12. Respondent Todd Lyons is the Acting Director of Immigration and Customs
14 Enforcement, a federal law enforcement agency within the Department of Homeland
15 Security. ICE's responsibilities include operating the immigration detention system. In his
16 capacity as ICE Acting Director, Respondent Lyons exercises control over and is a
17 custodian of persons held at ICE facilities nationally.

18 13. Respondent Gregory J. Archambeault is the Field Office Director for the San
19 Diego office of ICE. OMDC is located within the jurisdiction of the ICE San Diego Field
20 Office, which has legal authority over all individuals in ICE custody there.

21 14. All foregoing respondents are named and sued in their official capacities.

22 15. Respondent United States Department of Homeland Security is the federal
23 agency responsible for implementing and enforcing the INA, including the detention and
24 removal of noncitizens.

25 16. Respondent United States Immigration and Customs Enforcement is the
26 agency within DHS responsible for implementing and enforcing the INA, including the
27 detention and removal of noncitizens.

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PETITION FOR WRIT OF HABEAS CORPUS
-4- Case No.

17. One or more of the foregoing respondents is Mr. Garcia Ruelas' immediate custodian and possesses ultimate authority over his custody.

LEGAL FRAMEWORK

Law and Procedure Governing This Habeas Petition

18. The United States Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl. 2). This includes immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

19. The “historic purpose of the writ” of habeas corpus is “to relieve detention by executive authorities without judicial trial.” *Zadvydas*, 533 U.S. at 699 (cleaned up).

20. A writ under 28 U.S.C. § 2241 may be issued if, among other things, a person “is in custody under or by color of the authority of the United States” or is “in custody in violation of the Constitution or laws or treaties of the United States.” 8 U.S.C. § 2241(c). A court’s role is at its “most extensive in cases of pretrial and noncriminal detention,” especially “where there ha[s] been little or no previous judicial review of the cause for detention.” *Boumediene v. Bush*, 553 U.S. 723, 780 (2008).

21. A court “entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

22. "The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243.

23. Once the government files its return, the Court shall set a “hearing, not more than five days after the return unless for good cause additional time is allowed.” 28 U.S.C. § 2243. “The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.” *Id.*

Relevant Statutes, Regulations, and Holdings

2 24. By appealing the IJ's rightful decision to grant Mr. Garcia Ruelas' release on
3 bond, and thus deploying the automatic stay provision of 8 C.F.R. § 1003.19(i)(2)¹ to
4 continue to hold Mr. Garcia Ruelas, Respondents have effectively taken the position that
5 Mr. Garcia Ruelas, despite being a resident of the United States since the 1980s, should be
6 deemed to be seeking admission to the United States and therefore subject to mandatory
7 detention during the removal hearing process pursuant to 8 U.S.C. § 1225(b)(2)(A).
8 Crucially, bond is unavailable to those detained under § 1225, while the Attorney General
9 may grant bond to a § 1226 detainee. *Compare* 8 U.S.C. § 1225(b)(2) ("shall be detained")
10 *with*, 8 U.S.C. § 1226(a)(2) ("may release the alien").

11 25. Section 1226(a) applies to anyone who is detained “pending a decision on
12 whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Section
13 1226 confirms that this authority includes not just noncitizens who are deportable pursuant
14 to 8 U.S.C. § 1227(a), but also noncitizens who are inadmissible pursuant to 8 U.S.C.
15 § 1182(a). 8 U.S.C. § 1226(c). In contrast, § 1225 is concerned “primarily [with] aliens
16 seeking entry,” *i.e.*, cases “at the Nation’s borders and ports of entry, where the
17 Government must determine whether an alien seeking to enter the country is admissible.”
18 *Jennings v. Rodriguez*, 583 U.S 281,287, 297 (2018). “Courts have repeatedly held that
19 § 1225 applies to arriving aliens, while § 1226 governs detention of ‘aliens already in the
20 country.’” *Anicasio*, 2025 WL 2374224, at *2 (quoting *Jennings*, 583 U.S. at 281); *see also*
21 *Torres v. Barr*, 976 F.3d 918, 922 (9th Cir. 2020); *United States v. Gambino-Ruiz*, 91 F.4th
22 981, 986 (9th Cir. 2024); *Padilla-Ramirez v. Bible*, 882 F.3d 826, 829 (9th Cir. 2017).

23 26. Despite the clear statutory language and the weight of precedential rulings,
24 the BIA issued a decision, in a drastic departure from longstanding and inviolate case law

²⁶ ¹In certain cases, 8 C.F.R. § 1003.19(i)(2) provides for an automatic stay “upon DHS’s filing of a notice
27 of intent to appeal the custody redetermination (Form EOIR-43) with the immigration court within one
28 business day of the order, and, except as otherwise provided in 8 CFR 1003.6(c), shall remain in
abeyance pending decision of the appeal by the Board.” In turn, 8 C.F.R. 1003.6(c)(1) provides that
“[t]he stay shall lapse if DHS fails to file a notice of appeal with the Board within ten business days of
the issuance of the order of the immigration judge.”

1 in *Matter of Yajure Hurtado*, 26 I&N Dec. 216 (B.I.A. 2025), in which it improperly held
 2 that noncitizens who are present in the United States without admission are subject to 8
 3 U.S.C. § 1225(b)(2)(A).

4 27. However, other Ninth Circuit Courts, including this specific district, have
 5 discredited the *Hurtado* decision and have held that this use of mandatory detention
 6 provisions is improper and violates detainees' due process rights. *See, e.g., Garcia v.*
 7 *Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025), *Silva v. Larose*, No. 25-CV-2329-JES-
 8 KSC, 2025 WL 2770639, at *3 (S.D. Cal. Sept. 29, 2025).

9 28. Detention under all sections of the INA must comport with the Fifth
 10 Amendment's Due Process Clause, which "applies to all 'persons' within the United States,
 11 including aliens, whether their presence is lawful, unlawful, temporary, or permanent."
 12 *Zadvydas*, 533 U.S. at 693; *see also Demore v. Kim*, 538 U.S. 510, 523 (2003). To comport
 13 with substantive due process, immigration detention must "bear [a] reasonable relation to
 14 the purpose for which the individual [was] committed." *Zadvydas*, 533 U.S. at 690.

15 29. Mr. Garcia Ruelas' continued detention violates his Fifth Amendment
 16 substantive and procedural due process rights.

17 30. For nearly fifty years, the standard to determine a violation of procedural due
 18 process requires the balancing of three factors: (1) "the private interest that will be affected
 19 by the official action;" (2) "the risk of an erroneous deprivation of such interests through
 20 the procedures used, and the probable value, if any, of additional or substitute procedural
 21 safeguards;" and (3) "the Government's interest, including the function involved and the
 22 fiscal and administrative burdens that the additional or substitute procedural requirement
 23 would entail." *Mathews v. Eldridge*, 424 U.S. 319, 355 (1976). The Ninth Circuit has held
 24 that "[u]ltimately, *Mathews* remains a flexible test that can and must account for the
 25 heightened governmental interest in the immigration detention context." *Rodriguez Diaz v.*
 26 *Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022).

27 31. A substantive due process violation results whenever a court has determined
 28 that detention has become unreasonably prolonged due to a number of factors. *Kydyrali v.*

1 *Wolf*, 499 F. Supp. 3d 768, 763 (S.D. Cal. 2020). Such factors are “(1) total length of
 2 detention to date; (2) likely duration of future detention; (3) conditions of detention;
 3 (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal
 4 proceeding caused by the government; and (6) the likelihood that the removal proceedings
 5 will result in a final order of removal.” *Id.*

6 32. Additionally, the Supreme Court of the United States has intentionally left
 7 open a detainee’s ability to challenge conditions of confinement under a habeas petition.
 8 *Ziglar v. Abbasi*, 582 U.S. 120,144 (2017). The more that the conditions of civil detention
 9 begin to approximate those of criminal detention, the more likely that conditions of
 10 confinement are a constitutional violation. *Doe v. Becerra*, 732 F. Supp.3d 1071 (N.D. Cal.
 11 2024).

12 33. Further, this Court has the authority to invalidate agency actions beyond
 13 delegated authority as *ultra vires*. *See Romero v. INS*, 39 F.3d 977, 980 (9th Cir. 1994).
 14 Congress has permitted the Attorney General to delegate detention determinations to “any
 15 other officer, employee, or agency of the Department of Justice.” 28 U.S.C. § 510.
 16 Immigration Judges are administrative law judges within the DOJ and are thus properly
 17 delegated bond-determination authority, whereas DHS is not. *See* 8 U.S.C. § 1101(b)(4).
 18 As such, DHS, by overriding the discretionary authority exercised by the IJ to grant Mr.
 19 Garcia Ruelas’ release and thus invoking the automatic stay provision can be (and should
 20 be) invalidated as plainly *ultra vires*.

21 34. Lastly, under the APA, “final agency action for which there is no other
 22 adequate remedy in a court [is] subject to judicial review.” 5 U.S.C. § 704. The reviewing
 23 Court “shall . . . hold unlawful and set aside agency action, findings, and conclusions found
 24 to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with
 25 law,” or “unsupported by substantial evidence.” 5 U.S.C. § 706(2)(A), (E).

26 FACTUAL AND PROCEDURAL HISTORY

27 35. Mr. Garcia Ruelas is a 63-year-old man who has resided in Southern
 28 California for over thirty years. During this time, Mr. Garcia Ruelas has never had a

1 criminal history—his record is impeccable and he is an upstanding member of his
2 community.

3 36. Mr. Garcia Ruelas has worked at the EPL Car Wash in Covina, California for
4 decades in order to support himself and his partner, a lawful permanent resident, who is
5 now struggling to meet the couple's joint household expenses without the contribution of
6 his income.

7 37. On June 28, 2025, while Mr. Garcia Ruelas was working a shift at the EPL
8 Car Wash, he was approached and apprehended by ICE.

9 38. According to Mr. Garcia Ruelas' Notice to Appear, he was charged as an
10 "alien present who has not been admitted or paroled" pursuant to INA 212(a)(6)(A)(1).

11 39. After being held at the B-18 ICE processing center in downtown Los Angeles,
12 Mr. Garcia Ruelas was transferred to OMDC, more than 140 miles away from his home,
13 partner, and, arguably most importantly, the City of Hope medical center where Mr. Garcia
14 Ruelas was receiving ongoing critical treatment for his battle with prostate cancer. He
15 remains detained in OMDC.

16 40. At the time of Mr. Garcia Ruelas' detention, DHS determined he should be
17 held without bond. On July 28, 2025, Mr. Garcia Ruelas requested a bond redetermination
18 hearing, which was ultimately granted.

19 41. The redetermination hearing took place before an IJ on July 31, 2025. After
20 reviewing all available evidence and conducting a hearing, the IJ "found that Respondent
21 has met his burden to show that" he "does not pose a danger to the community" and that,
22 despite presenting a "slight flight risk... [Mr. Garcia Ruelas] possesses various positive
23 factors which mitigate his risk of flight," including his plans to marry his partner, the fact
24 that he has resided in the United States for decades, and due to his ongoing treatment for
25 prostate cancer. As such, the IJ granted Mr. Garcia Ruelas' release upon the payment of a
26 \$10,000 bond.

42. Despite the IJ's reasoned decision based on all available evidence that Mr. Garcia Ruelas should be released on bond, the DHS filed an EOIR-43 indicating its intent to appeal.

43. The BIA acknowledged receipt of the appeal from DHS, which was filed on August 11, 2025, and notice was given on August 18, 2025.

44. Mr. Garcia Ruelas has now been detained for over three months in OMDC, where he suffers the emotional pain of being far from home and from his partner, as well as physical pain due to complications with his prostate cancer, which no doubt has been made worse by the deterioration in his ability to obtain appropriate medical treatment for his acute condition.

45. Further, Mr. Garcia Ruelas has been living in unsanitary, uncomfortable conditions, as OMDC has been slow and, at times unable, to provide Mr. Garcia Ruelas with the proper adult diapers and sanitary material he needs as a result of his incontinence caused by his prostate cancer. Mr. Garcia Ruelas has had to go days without any adult diapers at all.

46. Mr. Garcia Ruelas hopes to secure his release through the instant petition so that he may get back to supporting his partner, as well as receiving the life-saving medical care he was being provided by City of Hope.

FIRST CLAIM FOR RELIEF

Violation of 8 U.S.C. § 1226(a)

(Jurisdictional Misclassification)

47. Mr. Garcia Ruelas incorporates by reference the allegations of fact set forth in the preceding paragraphs.

48. DHS effectively asserts that Mr. Garcia Ruelas is subject to mandatory detention under 8 U.S.C. § 1225 as an “arriving alien,” despite having detained him inside the United States and charging him under § 1226. Courts have consistently held that § 1226 governs detention of noncitizens already present in the country. *See generally Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013).

49. The application of § 1225(b)(2) to Mr. Garcia Ruelas unlawfully mandates his continued detention.

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Substantive Due Process)

50. Mr. Garcia Ruelas incorporates by reference the allegations of facts set forth in all preceding and subsequent paragraphs.

51. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty “without due process of law.” U.S. Const. Amend. V.

52. Mr. Garcia Ruelas' detention has become unreasonably prolonged.

53. Mr. Garcia Ruelas' conditions of confinement—marked by inadequate medical care and exposure to unsanitary living environments—pose a substantial risk of serious and irreparable harm to his health and well-being.

54. Mr. Garcia Ruelas' prostate cancer is a serious, diagnosed medical condition.

55. ODMC has failed to provide adequate medical care. ODMC has not afforded Mr. Garcia Ruelas proper treatment or medication, and has further failed to supply necessary sanitation devices for incontinence.

56. The government has only two legitimate interests that may be served by civil immigration detention: preventing flight from removal proceedings and protecting the community from danger.

57. Mr. Garcia Ruelas' detention is untethered to any legitimate government interests, which would be amply satisfied by his release with appropriate condition.

58. Mr. Garcia Ruelas' continued detention violates his Fifth Amendment right to Due Process.

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process)

59. Mr. Garcia Ruelas incorporates by reference the allegations of facts set forth in the preceding paragraphs.

60. Mr. Garcia Ruelas' private interest in his liberty and the risk of erroneous deprivation of that liberty far outweighs the government's interest in detaining him after an IJ has found that he is neither a danger nor a significant flight risk in need of continued detention.

61. Mr. Garcia Ruelas' continued detention violates his Fifth Amendment right to Due Process.

FOURTH CLAIM FOR RELIEF

Violation of the *Ultra Vires* Doctrine

62. Mr. Garcia Ruelas incorporates by reference the allegations of facts set forth in the preceding paragraphs.

63. The regulation permitting the government to impose an automatic stay exceeds its statutory authority under the INA, which delegates bond decisions to Department of Justice appointed IJs. *See Romero v. INS*, 39 F.3d 977, 980 (9th Cir. 1994); 28 U.S.C. § 510.

FIFTH CLAIM FOR RELIEF

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)

64. Mr. Garcia Ruelas incorporates by reference the allegations of fact set forth in the preceding paragraphs.

65. Under the Administrative Procedure Act, a court must “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law,” that is “contrary to constitutional right [or] power,” or that is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).

66. Respondents' detention of Mr. Garcia Ruelas pursuant to § 1225(b)(2) is arbitrary and capricious. Respondents' detention of Mr. Garcia Ruelas violates the INA and the Fifth Amendment. Respondents do not have statutory authority under § 1225(b)(2) to detain him.

67. Mr. Garcia Ruelas' detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

9 WHEREFORE, Mr. Garcia Ruelas respectfully ask that this Court take jurisdiction over
10 this matter and grant the following relief:

- a. Issue a Writ of Habeas Corpus ordering Mr. Garcia Ruelas' immediate release from detention pursuant to the IJ's July 31, 2025 Order;
- b. Enjoin respondents from transferring Mr. Garcia Ruelas outside of the Southern District of California, further away from his family and pro bono counsel;
- c. Declare Mr. Garcia Ruelas' detention in Respondents' custody unlawful under the INA and Due Process Clause of the Fifth Amendment of the United States Constitution;
- d. Grant any other and further relief that this Court deems just and proper.

DATED: October 20, 2025

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