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6 **UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

7 **Jose Alberto Ramos Garcia**

CASE NO.: 25CV2936-BTM-MMP

8 **Petitioner-Plaintiff,**

A#: 

9 vs.

**PETITION FOR WRIT OF
HABEAS CORPUS; COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**


10 **CHRISTOPHER J. LAROSE, Senior**
11 **Warden, Otay Mesa Detention Center;**
12 **PATRICK DIVVER, Field Office**
13 **Director, San Diego Office of Detention**
14 **and Removal, U.S. Immigration and**
15 **Customs Enforcement; TODD M.**
16 **LYONS, Acting Director, U.S.**
17 **Immigration and Customs Enforcement,**
18 **U.S. Department of Homeland Security;**
19 **and KRISTI NOEM, Secretary, U.S.**
20 **Department of Homeland Security,**



CHALLENGE TO UNLAWFUL
INCARCERATION; REQUEST FOR
DECLARATORY AND INJUNCTIVE
RELIEF

21 **Respondents-Defendants.**
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1 Petitioner Jose Alberto Ramos Garcia petitions this Court for a writ of habeas corpus under
2 28 U.S.C. section 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

3 **INTRODUCTION**

4 1. Petitioner Jose Alberto Ramos Garcia ("Petitioner" or "Mr. Ramos Garcia") is a
5 Salvadoran asylum seeker detained at Otay Mesa Detention Center in San Diego, California. He
6 was persecuted in El Salvador on account of his membership in particular social groups by 

7  the Salvadoran government is unable and unwilling to
8 control. The persecution he suffered in El Salvador included 

9 2. On or about January 2, 2023, Mr. Ramos Garcia entered the United States.

10 3. Respondents commenced removal proceedings against him in immigration court,
11 entitling him to present his asylum claim with the due process rights under 8 U.S.C. § 1229a.

12 4. Since then, Petitioner has attended his immigration court hearings. On or about
13 August 7, 2025, he filed a Form I-589 Application for Asylum, Withholding of Removal, and
14 protection under the Convention Against Torture with the immigration court.

15 5. Since approximately mid-May 2025, DHS has implemented a coordinated practice of
16 leveraging immigration detention to strip people like Mr. Ramos Garcia of their substantive and
17 procedural rights and pressure them into deportation.¹ Immigration detention is civil and thus is
18 permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and
19 to prevent danger to the community. But DHS did not arrest and detain Mr. Ramos Garcia—who
20 demonstrably poses no risk of absconding from immigration proceedings or danger to the
21 community—for either of these reasons.

22 6. Respondents now seek to keep Petitioner detained without a meaningful opportunity
23 to seek a bond or custody redetermination hearing. *See* 8 U.S.C. § 1225. Respondents do so based
24 not on Mr. Ramos Garcia's personal circumstances or individualized facts. Due to his detention,
25 Mr. Ramos Garcia is at risk of being transferred away from the Southern District of California while
26 he remains in Respondents' physical and legal custody.

26 ¹ Steve Price, Video shows ICE agents arresting immigrants at San Diego federal courthouse, raising due process
27 concerns, CBS8 LOCAL NEWS (June 11, 2025, 5:40 p.m. PDT), <https://www.cbs8.com/article/news/local/video-ice-agents-arrestimmigrants-at-san-diego-federal-courthouse-raises-due-process-concerns/509-49745585-774b-4144-81ff-3486c5fadbe9> (last visited September 12, 2025) ("The exact number of arrests is unclear, but footage shows agents
28 detaining people immediately after court appearances.").

1 8. But Respondents cannot evade due process requirements so easily. The U.S.
2 Constitution requires the Respondents provide at least the rights available to him when he filed his
3 application for asylum.

4 9. The Constitution protects Mr. Ramos Garcia—and every other person present in this
5 country—from arbitrary deprivations of his liberty and guarantees him due process of law. The
6 government’s power over immigration is broad, but as the Supreme Court has declared, it “is
7 subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).
8 “Freedom from bodily restraint has always been at the core of the liberty protected by the Due
9 Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

10 10. Mr. Ramos Garcia seeks declaratory and injunctive relief to compel his immediate
11 release from the immigration jail where he has been held by DHS since being unlawfully detained
12 since March 2025, without first being provided a due process hearing to determine whether his
13 incarceration is justified. In the alternative, Mr. Ramos Garcia seeks declaratory and injunctive relief
14 to compel an individualized bond hearing within 14 days, based on the unlawful retroactive
15 application of *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 225 (BIA 2025), which denied Mr.
16 Ramos Garcia of the bond granted by the Immigration Judge on July 29, 2025.

17 11. Absent review in this Court, no other neutral adjudicator will examine Mr. Ramos
18 Garcia’s plight: Respondents will continue—unchecked—to detain him unlawfully under 8 U.S.C.
19 § 1225(b)(1), INA § 235(b)(1), without due process. On July 29, 2025, an Immigration Judge at
20 Otay Mesa Detention Center granted Mr. Ramos Garcia’s request for bond, finding that he
21 demonstrated that he does not pose a danger to the community nor such a significant flight risk that
22 he should not be released. Counsel for DHS appealed, and the BIA found that the Immigration
23 Judge was without jurisdiction to decide Mr. Ramos Garcia’s bond under the decision of *Matter of*
24 *Yajure Hurtado*, 29 I&N Dec. 216, 225 (BIA 2025), which was decided during the pendency of
25 DHS’s appeal of the Immigration Judge’s bond decision.

26 12. For the reasons outlined below, Mr. Ramos Garcia’s inability to contest his detention
27 violates his statutory and constitutional rights. Mr. Ramos Garcia respectfully requests that this
28 Court should grant the instant petition for a writ of habeas corpus, and for declaratory and injunctive
relief in the form of an individualized bond hearing, to prevent such harms from recurring. Mr.
Ramos Garcia also asks this Court to find that Respondents’ attempts to transfer and deport him are
arbitrary and capricious and in violation of the law, and to immediately issue an order preventing

1 his transfer out of this district.

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3 **JURISDICTION**

4 13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq.*

5 14. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs Act).

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8 15. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens
9 challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003)
10 (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533
11 U.S. 678, 787 (2001) (same); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *3
12 (D. Or. July 9, 2025) (same); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL
13 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (same).

14 16. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et*
15 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, the All Writs Act, 28 U.S.C. § 1651,
16 and the Court’s inherent equitable powers.

17 **VENUE**

18 17. Venue is proper because Petitioner is in Respondents’ legal and
19 physical custody at Otay Mesa Detention Center in San Diego, California. Venue is further proper
20 because a substantial part of the events or omissions giving rise to Petitioner’s claims occurred in
21 this District, where Petitioner is now in Respondents’ legal and physical custody, including his
22 current and ongoing detention under the legal and physical custody of Respondent LaRose, warden
23 of Otay Mesa Detention Center. 28 U.S.C. § 1391(e); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004)
24 (habeas petition must be addressed to the federal district court of confinement); *Wairimu v. Dir.,*
25 *Dep’t of Homeland Sec.*, No. 19-CV-174-BTM-MDD, 2019 WL 460561, at *2 (S.D. Cal. Feb. 5,
2019) (district of confinement is the preferable forum even if the Court otherwise has personal
jurisdiction). For these same reasons, venue should be found proper under Local Civil Rule HC.1.

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CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

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18. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

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19. Mr. Ramos Garcia is “in custody” for the purpose of 28 U.S.C. section 2241 because he was arrested by Respondents and remains in their legal and physical custody at Otay Mesa Detention Center in San Diego, California. He is under Respondents’ and their agents’ direct control.

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PARTIES

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20. Mr. Ramos Garcia (“Petitioner”) is a 35-year-old citizen and national of El Salvador. He came to the USA in 2023 to seek asylum, withholding of removal, or protection under the Convention Against Torture after fleeing violence and death in El Salvador on account of his membership in particular social groups by the [REDACTED], criminal groups the Salvadoran government is unable and unwilling to control. The persecution he suffered in El Salvador included [REDACTED]

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[REDACTED]. He is not married. He has four children, one of which is a US citizen and lives with Petitioner’s partner in Florida. He works in construction. Mr. Ramos Garcia was arrested by Florida Fish and Wildlife officers for harvesting oysters, and he received a non-criminal infraction for fishing without a license. After ICE took him into custody, the pending non-criminal case was administratively closed. Since the arrest on or about March 9, 2025, Mr. Ramos Garcia has remained in Respondents’ custody.

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21. Mr. Ramos Garcia is currently residing in Respondents’ custody at Otay Mesa Detention Center in San Diego, California, as of the time of the filing of this petition.

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22. Respondent Christopher LaRose (“LaRose”) is the Senior Warden at Otay Mesa Detention Center in San Diego, California, where Petitioner is detained. LaRose is responsible for the day-to-day operations and confinement of non-citizens detained at that facility. He acts at the direction of Respondents Divver, Lyons, and Noem. LaRose is a custodian of Petitioner and is named in his official capacity.

1 23. Respondent Patrick Divver (“Divver”) is the Field Office Director of ICE in San
2 Diego, California. He acts at the direction of Respondents Lyons and Noem. ICE is responsible for
3 local custody decisions relating to non-citizens charged with being removable from the U.S.,
4 including the arrest, detention, custody status, and removal of non-citizens. The San Diego Field
5 Office’s area of responsibility includes San Diego and Imperial Counties in California. Respondent
6 Divver is a custodian of Petitioner and is named in his official capacity.

7 24. Respondent Todd Lyons (“Lyons”) is the Acting Director of ICE, and he has
8 authority over the actions of Respondents LaRose and Divver. ICE is responsible for local custody
9 decisions relating to non-citizens charged with being removable from the U.S., including the arrest,
10 detention, custody status, and removal of non-citizens. Respondent Lyons is a custodian of
11 Petitioner and is named in his official capacity.

12 25. Respondent Kristi Noem (“Noem”) is the Secretary of DHS and has authority over
13 the actions of all other DHS Respondents in this case, as well as all operations and federal agencies
14 of DHS, including ICE. In her capacity as Secretary of DHS, Respondent Noem is charged with
15 faithfully administering the immigration and naturalization laws of the United States. 8 U.S.C. §
16 1103(a). Respondent Noem is a custodian of Petitioner and is named in her official capacity.

17 26. Respondent ICE is responsible for local custody decisions relating to non-citizens
18 charged with being removable from the U.S., including the arrest, detention, custody status, and
19 removal of non-citizens.

20 27. Respondent DHS is the federal agency that has authority over the actions of ICE and
21 all other DHS Respondents.

22 28. This action is commenced against Respondents LaRose, Divver, Lyons, and Noem
23 (collectively, “Respondents”) all in their official capacities.

24 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

25 29. Petitioner has no administrative remedies to exhaust.

26 30. Mr. Ramos Garcia received an NTA on or about March 4, 2025, which was filed
27 before the Otay Mesa Immigration Court to initiate his INA section 240 immigration proceedings.

28 31. On October 21, 2025, the BIA confirmed that it was unlikely Mr. Ramos Garcia
would be released on bond because of the holding in *Matter of Yajure Hurtado*, 29 I&N Dec. 216,
225 (BIA 2025). As such, Mr. Ramos Garcia’s continued detention in Respondents’ custody cannot
be challenged by way of bond proceedings before an Immigration Judge, unless the retroactive

1 application of *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 225 (BIA 2025) is declared unlawful.
2 Mr. Ramos Garcia is also challenging the unlawfulness of Respondents’ decision to detain him,
3 independent of any decision made by any Immigration Judge in removal proceedings.

4 32. Therefore, a writ of habeas corpus is the sole avenue to vindicate Mr. Ramos
5 Garcia’s constitutional, statutory, and regulatory rights and restore his liberty.

6 **LEGAL FRAMEWORK**

7 33. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a
8 right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the
9 Refugee Act is to enforce the “historic policy of the United States to respond to the urgent needs of
10 persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-
11 212, 94 Stat. 102 (1980).

12 34. The “motivation for the enactment of the Refugee Act” was the United Nations
13 Protocol Relating to the Status of Refugees, “to which the United States had been bound since
14 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a
15 legislative purpose “to give ‘statutory meaning to our national commitment to human rights and
16 humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

17 35. The Refugee Act established the right to apply for asylum in the United States and
18 defines the standards for granting asylum. It is codified in various sections of the INA.

19 36. The INA gives the Attorney General or the Secretary of Homeland Security
20 discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that
21 definition, individuals generally are eligible for asylum if they have experienced past persecution or
22 have a well-founded fear of future persecution on account of race, religion, nationality, membership
23 in a particular social group, or political opinions and if they are unable or unwilling to return to and
24 avail themselves of the protection of their homeland because of that persecution or fear. 8 U.S.C. §
25 1101(a)(42)(A).

26 37. Although a grant of asylum may be discretionary, the right to apply for asylum is
27 not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
28 physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).

38. Because of the life-or-death stakes, the statutory right to apply for asylum is robust.
The right necessarily includes the right to counsel, at no expense to the government, see 8 U.S.C. §§

1 1229a(b)(4)(A), 1362, the right to notice of the right to counsel, *see* 8 U.S.C. § 1158(d)(4), and the
2 right to access information in support of an application, *see* § 1158(b)(1)(B) (placing the burden on
3 the applicant to present evidence to establish eligibility.).

4 39. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment
5 to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

6 40. Noncitizens who are applicants for asylum are entitled to a full hearing in
7 immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent
8 with due process, noncitizens may seek administrative appellate review before the Board of
9 Immigration Appeals of removal orders entered against them and judicial review in federal court
10 upon a petition for review. 8 U.S.C. § 1252(a) *et seq.*

11 41. Asylum is not an admission to the United States and an applicant for asylum, while
12 they must be physically present in the United States to apply, need not apply for or seek admission
13 to the United States. *Matter of V-X-*, 26 I&N Dec. 147 (BIA 2013).

14 42. Immigration detention should not be used as a punishment and should only be used
15 when, under an individualized determination, a noncitizen is a flight risk because they are unlikely
16 to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678,
17 690 (2001).

18 43. On January 20, 2025, President Donald Trump issued several executive actions
19 relating to immigration, including “Protecting the American People Against Invasion,” an executive
20 order (EO) setting out a series of interior immigration enforcement actions. The Trump
21 administration, through this and other actions, has outlined sweeping, executive branch-led changes
22 to immigration enforcement policy, establishing a formal framework for mass deportation. The
23 “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all
24 appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement
25 procedures including through the use of mass detention.

26 44. On information and belief, Petitioner alleges that Respondents detained him for the
27 purpose of divesting him of his due process rights in his properly filed asylum application.

28 45. On information and belief, Respondents did not afford Petitioner due process before
revoking his release from custody, depriving him of his liberty interest, and placing him in detention
within Respondents’ legal and physical custody.

46. On information and belief, Respondents are using the immigration detention system,

1 including extra-territorial transfer and detention, as a means to punish individuals for asserting
2 rights under the Refugee Act.

3 **FACTUAL BACKGROUND**

4 47. Petitioner is 35-year-old citizen and national of El Salvador.

5 48. Mr. Ramos Garcia was persecuted in El Salvador on account of his membership in
6 particular social groups by the [REDACTED] and [REDACTED] gangs, criminal groups the Salvadoran
7 government is unable and unwilling to control. The persecution he suffered in El Salvador included
8 [REDACTED].

9 49. While living in El Salvador, Petitioner. [REDACTED]
10 [REDACTED], [REDACTED], fearing a similar
11 fate, Petitioner decided to flee to the USA, leaving behind his life partner and three kids.

12 50. Petitioner passed through Guatemala and Mexico to reach the USA. While in
13 Mexico, Petitioner was [REDACTED]

14 51. Petitioner attended one or more master calendar hearings. In August 2025, he filed
15 an asylum application with the immigration court.

16 52. The DHS started this removal proceeding on or about March 6, 2025.

17 53. Respondents alleged he was inadmissible to the United States under INA
18 212(a)(6)(A)(i) and commanded him to appear for a hearing on April 4, 2025, in the immigration
19 court in Tallahassee, Florida.

20 54. Petitioner was detained by ICE at Broward Transitional Center on or about March 9,
21 2025.

22 55. Petitioner's case was transferred to the Otay Mesa Immigration Court on or about
23 March 14, 2025, and has been detained at Otay Mesa Detention Center since that date.

24 56. On or about August 7, 2025, Petitioner filed his Form I-589 asylum application
25 before the Otay Mesa Immigration Court.

26 57. After the custody redetermination hearing, on August 26, 2025, the Immigration
27 Judge ordered Petitioner be released on bond in the amount of \$1,500. Counsel for DHS appealed
28 the Immigration Judge's decision, and the BIA found, on October 21, 2025, that the Immigration
Judge was without jurisdiction pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025),

1 which was decided during the pendency of the appeal.

2 **CAUSES OF ACTION**

3 **COUNT ONE**

4 **Violation of Fifth Amendment Right to Due Process -**

5 **Illegal Retroactive Application of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), U.S.**

6 **Const. Amend. V.**

7 58. Petitioner restates, realleges, and incorporates by reference each and every allegation
8 in the paragraphs above as if fully set forth herein.

9 59. Administrative rules “will not be construed to have retroactive effect unless their
10 language requires this result.” *Landgraf v. USI Film Products*, 511 U.S. 244, 272 (1994). When a
11 “new provision attaches new legal consequences to events completed before its enactment” the new
12 provision is not retroactive unless it is unmistakably clear.

13 60. Applying *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), decided
14 September 5, 2025, to overturn Petitioner’s grant of bond by the Immigration Judge on July 29,
15 2025, would attach new legal consequences including the loss of significant rights related to his
16 right to seek asylum and his liberty interest.

17 61. The retroactive application of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA
18 2025) must be balanced against the production of a result which is contrary to a statutory design or
19 to legal and equitable principles. *Montgomery Ward & Co. v. FTC*, 691 F.2d 1322, 1333 (9th Cir.
20 1982). When evaluating whether a new administrative rule or judicial decision should be applied
21 retroactively, *Montgomery Ward & Co., Inc. v. FTC*, 691 F.2d 1322 (9th Cir. 1982), generally
22 involves evaluating the following factors: whether the particular case is one of first impression,
23 whether the new decision represents an abrupt departure from well-established practice or simply
24 attempts to fill a void in an unsettled area of law, the extent to which parties reasonably relied on
25 the prior, favorable decision or established practice, the degree of hardship that would result from
26 the retroactive application of the new rule or decision, and the extent to which the purpose of the
27 rule would be served by retroactive application. *See id.*

28 62. Accordingly, Respondents unlawfully subjected Petitioner to the retroactive application
of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

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COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Violation of 8 C.F.R. § 239.2(c)

63. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

64. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

65. In deciding to overturn the Immigration Judge’s bond decision, Respondents further violated the APA by “entirely fail[ing] to consider an important aspect of the problem” – namely, the important procedural rights that Petitioner relied on in § 1229a immigration court proceedings. *See Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *see also Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-33 (2020) (holding that rescission of immigration policy without considering “particular reliance interests” is arbitrary and capricious in violation of the APA).

66. The arbitrary and capricious BIA decision was not made in furtherance of an enumerated reason set forth in the regulations and causes Petitioner irreparable harm. For these reasons, the Court should find that the decision to overturn Petitioner’s granted bond is arbitrary, capricious, and unsupported by substantial evidence. *See* 5 U.S.C. § 706(2)(A), (E).

COUNT THREE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority, Unlawful Detention

67. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

68. Under the APA, a court shall “hold unlawful and set aside agency action...” that is “...(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity...” 5 U.S.C. § 706(2)(A)-(B).

69. An action is an abuse of discretion if the agency “entirely failed to consider an

1 important aspect of the problem, offered an explanation for its decision that runs counter to the
2 evidence before the agency, or is so implausible that it could not be ascribed to a difference in view
3 or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644,
4 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463
U.S. 29, 43 (1983)).

5 70. To survive an APA challenge, the agency must articulate “a satisfactory explanation”
6 for its action, “including a rational connection between the facts found and the choice made.” *Dep’t*
7 *of Com. v. New York*, 588 U.S. 752, 773 (2019) (citation omitted).

8 71. In *Y-Z-H-L v Bostock*, 2025 WL 1898025, at *10-12 (D. Or. July 9, 2025), the Court
9 explained the process of discretionary release from custody in immigration cases and noted that
10 before revoking the release, the non-citizen must be given written notice of the impending
11 revocation, which must include a cogent description of the reasons. Under the APA, non-citizens
12 are entitled to determinations related to their release revocations that are not arbitrary, capricious or
an abuse of discretion. *See id.* at *10.

13 72. By overturning the bond decision and continuing to detain Petitioner without
14 consideration of his individualized facts and circumstances, Respondents have violated the INA,
implementing regulations, and the APA.

15 73. Respondents have made no finding that Petitioner is a danger to the community.

16 74. Respondents have made no finding that Petitioner is a flight risk.

17 75. On information and belief, by detaining Mr. Ramos Garcia categorically and without
18 notice, Respondents have further abused their discretion because, since the agency made its initial
19 custody determination, on information and belief, there have been no changes to Mr. Ramos
20 Garcias’s specific facts or circumstances that support his detention.

21 76. On information and belief, the reason Petitioner was transferred into ICE custody was
22 an incident that resulted in a non-criminal infraction. Petitioner was initially detained by Florida
23 Fish and Wildlife Conservation Commission and subsequently transferred to the county sheriff, who
24 in turn transferred to U.S. Immigration and Customs Enforcement. The underlying sustained non-
criminal citation was for fishing without a license.

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COUNT FOUR

Violation of Fifth Amendment Right to Due Process – Procedural Due Process, U.S. Const. Amend. V.

77. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

78. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

79. Mr. Ramos Garcia has a fundamental interest in liberty and being free from official restraint.

80. The government’s detention of Petitioner without a notice or an opportunity to be heard before detention violates his right to due process.

81. The government’s detention of Petitioner without a meaningful bond and custody redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner’s detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (3) Declare that the retroactive application of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) to overturn Petitioner’s bond grant was unlawful;
- (4) Declare that refusal to allow Petitioner a meaningful bond and custody redetermination hearing violates the INA, APA, and Due Process;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (6) Issue an Order prohibiting the Respondents from transferring Petitioner from this district without the Court’s approval;
- (7) Issue an Order requiring Respondents to provide a bond and custody redetermination hearing under Section 1226 within 14 days to meaningfully consider his eligibility for

1 release from DHS custody;

2 (8) Grant such further relief as the Court deems just, equitable, and appropriate; and

3 (9) Grant any and all other further relief this Court deems just or proper.

4 Dated: November 20, 2025

Respectfully submitted,

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6 //s// John Wells

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28 Attorney for Petitioner Jose Alberto
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