

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

Arturo GOMEZ RAMIREZ,)	
Petitioner,)	'25CV2988 TWR BLM
v.)	PETITION FOR WRIT
Christopher J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center;)	OF HABEAS CORPUS
Gregory J. ARCHAMBEAULT, in his official capacity as San Diego Field Office Director, ICE)	A# 089-862-864
Enforcement Removal Operations; Todd LYONS,)	
in his official capacity as Acting Director of ICE; and)	
Kristi NOEM, in her official capacity as Secretary of Homeland Security, Pamela BONDI, U.S.)	
Attorney General; IMMIGRATION AND)	
CUSTOMS ENFORCEMENT; DEPARTMENT OF)	
HOMELAND SECURITY,)	
Respondents.)	

I. INTRODUCTION

1. Petitioner Arturo Gomez Ramirez ("Mr. Gomez") is a 37-year-old Mexican national who first entered the United States in August of 2003. He has resided in southern California for over 22 years. He has a long-time partner, Maria Lucia Rocha with whom he shares three children: [REDACTED] Gomez (19-years-old), [REDACTED] Gomez (15-years-old), and [REDACTED] Gomez (8-years-old). [REDACTED] and [REDACTED] are both United States citizens.

2. On September 9, 2025, Mr. Gomez was apprehended by ICE agents after leaving the Home Depot in Vista, California. Mr. Gomez cooperated with the agents, responding to all questions regarding nationality and authorization to be in the United

States. *See* Exh. 2. Thereafter, Mr. Gomez was detained and placed in removal proceedings. *See* Exh. 1.

3. On September 19, 2025, the Immigration Court denied Mr. Gomez a bond hearing. Exh. 4. The Immigration Judge (“IJ”) found that he lacked jurisdiction to redetermine the custody of Mr. Gomez based on recent case precedent from the Board of Immigration Appeals (“BIA”). *See id.*

4. Mr. Gomez therefore seeks a writ of habeas corpus directing his immediate eligibility for a bond hearing in the Immigration Court.

II. VENUE AND JURISDICTION

5. 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 Constitution (Suspension Clause), as Mr. Gomez is presently in custody under the authority of the United States and challenging his detention as in violation of the Constitution, laws, or treaties of the United States.

6. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

7. Venue is proper because Mr. Gomez is detained in the Otay Mesa Detention Center, within the San Diego Division, and Respondent LaRose is his immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

8. Petitioner Arturo Gomez Ramirez is a 37-year-old Mexican national who

resides in Vista, California. He is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

9. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention Center. Respondent La Rose is responsible for the operation of the Detention Center where Mr. Gomez is detained. As such, Respondent LaRose has immediate physical custody of the Petitioner. He is being sued in his official capacity.

10. Respondent Gregory J. Archambeault is the San Diego Field Office Director ("FOD") for ICE Enforcement and Removal Operations. Respondent Archambeault is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent Archambeault is being sued in his official capacity.

11. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of Mr. Gomez and is being sued in his official capacity.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

IV. EXHAUSTION OF REMEDIES

13. No statutory exhaustion requirement applies. *See* 8 U.S.C. § 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

14. Additionally, Mr. Gomez requested a bond hearing; however, the IJ refused

to consider the merits of Mr. Gomez' request, adopting the DHS' position that individuals in Mr. Gomez' situation are categorically ineligible for bond. Exh. 4.

15. Moreover, additional agency steps would be futile. On September 5, 2035, the BIA published *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025). In its decision, the BIA also adopted DHS' reading of 8 U.S.C. § 1225(b)(2), finding that noncitizens who entered the country without inspection are ineligible for release on bond.

16. Therefore, Mr. Gomez has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

17. Mr. Gomez is a Mexican national born on [REDACTED] 1987. He first entered the United States in August of 2003, when he was approximately 16 years-old. He returned briefly to Mexico several times between 2007 through 2012. Since his last entry into the United States in 2013, he has lived continuously in Vista, California.

18. Mr. Gomez is employed full-time in construction. He supports his partner, Maria Luisa, and their three children. [REDACTED]

19. On September 9, 2025, Mr. Gomez was apprehended by ICE agents after leaving the Home Depot in Vista, California. Thereafter, Respondents arrested and detained by Mr. Gomez. *See* Exh. 2.

20. On September 10, 2025 DHS issued Form I-286, Notice of Custody Determination, indicating that Mr. Gomez was being detained "Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations...pending a final administrative determination in [his] case." Exh. 3. Mr. Gomez has remained in Respondents' custody since that time.

21. On September 19, 2025, the IJ denied Mr. Gomez a bond hearing, finding that the Court lacked jurisdiction to redetermine Mr. Gomez' custody status. Exh. 4.

22. Mr. Gomez is statutorily eligible for Cancellation of Removal. Mr. Gomez' Form EOIR-42B, Application for Cancellation of Removal of Certain Non-Permanent Residents, was submitted on August 6, 2019 in a prior proceedings.

23. Mr. Gomez' next master-calendar hearing is scheduled on November 6, 2025, at 1:00 p.m. before Immigration Judge Robinson at 7488 Calzada de la Fuente, San Diego, California. Exh. 6.

24. Mr. Gomez remains detained because he has been denied the opportunity to demonstrate that he poses neither a danger to the community nor a flight risk warranting continued detention without bond. Mr. Gomez now seeks habeas relief because continued detention under 8 C.F.R. § 1003.19(i)(2) exceeds statutory authority and violates the Fifth Amendment.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

25. Habeas corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

26. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive in cases of pretrial and

noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

VII. CAUSES OF ACTION

COUNT ONE (PROCEDURAL DUE PROCESS)

27. Petitioner incorporates paragraphs 1 through 26 as if fully set out herein.
28. The Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).
29. The BIA’s new interpretation of 8 U.S.C. § 1225(a) strips Petitioner of that protection by classifying Petitioner as an “applicant for admission” after residing in California for the past 22 years. As an “applicant for admission,” Petitioner denied the opportunity to show that he is not a danger to the community or flight risk.
30. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test, Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner has been denied an opportunity to show that he is not subject to mandatory detention under 8 U.S.C. § 1226(c) and does not pose a danger to the community. Likewise, the risk of erroneous deprivation of liberty is great due to the lack

of a non-independent adjudicator. *Marcello v. Bonds*, 39 U.S. 302, 305-306 (1955).

31. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

COUNT TWO
(SUBSTANTIVE DUE PROCESS)

32. Petitioner incorporates paragraphs 1 through 26 as if fully set out herein.

33. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

34. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

35. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

36. Here, the Immigration Judge refused to evaluate the evidence presented by Petitioner showing he is not dangerous and not a flight risk. Continued confinement therefore bears no reasonable, non-punitive relationship to any legitimate aim and is

unconstitutionally arbitrary.

37. Respondents contend that Mr. Gomez is detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates the detention of an “applicant for admission” throughout the entirety of removal proceedings.

38. Respondents’ newly formulated definition of “applicant for admission,” which would include any noncitizen who has not been formally admitted regardless of years of residence in the United States, directly contradicts both the plain text of the statute and controlling Ninth Circuit precedent.

39. As the Ninth Circuit explained in interpreting the phrase “applicant for admission” under § 1225(b)(1), *“an immigrant submits an ‘application for admission’ at a distinct point in time,”* and stretching that phrase to apply *“potentially for years or decades ... would push the statutory text beyond its breaking point.”* *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir. 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).

40. Because Mr. Gomez has resided continuously in the United States since 2012, his period as an “applicant for admission” has long since closed.

41. But for intervention by this Court, Petitioner has no means of release pending ICE’s appeal.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision or issue such an order after conducting a hearing to consider

whether Respondents can prove by clear and convincing evidence that Petitioner's continued imprisonment is justified because he is such a danger to the community or such a flight risk that no amount of bond or monitoring system can ensure his appearance for future proceedings;

- 3) Alternatively, issue a writ of habeas corpus order requiring Petitioner's release unless the immigration court conducts a bond hearing within seven days at which ICE must prove by clear and convincing evidence that Petitioner's continued imprisonment is justified because he is such a danger to the community or such a flight risk that no amount of bond or monitoring system can ensure his appearance for future proceedings;
- 4) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody.
- 5) Order Respondents to file a response within 3 business days of the filing of this petition;
- 6) Award attorneys' fees to Petitioner; and
- 7) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 4th day of November, 2025.

/s/Julia V. Torres

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