

Alfonso Morales, State Bar No. 235314
LAW OFFICE OF ALFONSO MORALES, ESQ.
8131 Rosecrans Ave., Ste. 200
Paramount, CA 90723
Telephone: (310) 669-8700

Attorney for Petitioner

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

JOSE CASTRO MARTINEZ)

Petitioner,)


v.)

*Christopher J. LaRose in his official as Warden)
of OTAY MESA DETENTION FACILITY;)
Patrick Divver in his official Capacity as San)
Diego Field Office Director of the Immigration)
and Customs Enforcement, Enforcement and)
Removal Operations OTAY MESA)
DETENTION FACILITY; KRISTI NOEM,)
in her official capacity as Secretary)
of the U.S. Department of Homeland Security;)
and PAM BONDI, in her official)
capacity as Attorney General of the United States,)*

Respondents.)

**'25CV3449 DMS MMP
PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. This petition for Writ of Habeas Corpus filed on behalf of Petitioner Jose Castro Martinez ("Petitioner") to remedy his unlawful detention.
2. Petitioner is a native of Mexico, born on  1961. He first entered the United States on or around the year 1987. He is the father of two U.S. citizen children.

3. On November 26, 2025, Petitioner was arrested by Immigration and Customs Enforcement (ICE) without reasonable suspicion in violation of the Fourth Amendment's safeguard against unreasonable seizures. [See Exhibit B: "Declaration of Petitioner Jose Castro Martinez"]. He was detained in Lawndale, California without reasonable suspicion while targeted on his way to work. *Id.*
4. On November 1, 2025, Petitioner was denied release from custody under bond by Order of the Immigration Judge. The Court contended that it lacks jurisdiction to redetermine custody under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). [See Exhibit C: "Executive Office for Immigration Review Order Denying Petitioners Release Under Bond Dated November 1, 2025"].
5. On December 5, 2025, Petitioner was once again denied custody redetermination. The Court again contended that it lacked jurisdiction based on *Matter of Yajure Hurtado*. [See Exhibit D: "Executive Office for Immigration Review Order Denying Petitioners Release Under Bond Dated December 5, 2025"].
6. On November 21, 2025, Petitioner through his attorney filed a Motion to Suppress Evidence which was continued for an evidentiary hearing.
7. Petitioner has exhausted all available legal remedies with ICE and EOIR to seek release.
8. Petitioner intends to file a I-589, Application for Asylum with EOIR based on his fear of persecution if he is removed to Mexico.
9. Accordingly, Petitioner respectfully requests that this Court order Respondents to provide him with a prompt and constitutionally adequate bond hearing before an Immigration Judge, or, in the alternative, to release him from custody if such a hearing is not provided within a reasonable period.

JURISDICTION

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
11. This Court has subject matter 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).
12. This Court may grant relief under the habeas corpus statutes, 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.

VENUE

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at Otay Mesa Detention Facility in San Diego, California, which is within the jurisdiction of this District.
14. Venue is proper in this District because a substantial part of the events or omissions giving rise to this action occurred and continue to occur Otay Mesa Detention Facility in San Diego, California. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
16. 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) (emphasis added).

PARTIES

17. Petitioner was arrested by ICE officers on November 10, 2025, and was transferred to Otay Mesa Detention Facility where he is currently detained. He is in custody, and under the direct control, of Respondents and their agents.
18. Christopher J. LaRose, as the acting Warden of Otay Mesa Detention Facility, has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent is a legal custodian of Petitioner.
19. Respondent Patrick Divver is sued in his official capacity as the Acting Director of the San Diego Field Office of U.S. Immigration and Customs Enforcement. Respondent Divver is a legal custodian of Petitioner and has authority to release him.
20. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s detention and custody. Respondent Noem is a legal custodian of Petitioner.
21. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for

Immigration Review (EOIR), which administers the immigration courts and the BIA.

Respondent Bondi is a legal custodian of Petitioner.

EXHAUSTION OF REMEDIES

22. Petitioner has exhausted all administrative remedies available to him. He is currently detained at the Otay Mesa Detention Facility under the custody of U.S. Immigration and Customs Enforcement (“ICE”). After his arrest, Petitioner sought release from custody through a bond request on two separate occasions. Both his requests for custody redetermination were denied by an Immigration Judge on November 21, 2025, and December 5, 2025, based solely on the Immigration Judge contended lack of jurisdiction.
23. No further administrative process exists to challenge his ongoing detention or to obtain the relief sought. Petitioner does not challenge the discretionary denial of bond itself but rather the legality of his continued detention without a meaningful opportunity for release. Accordingly, the filing of this habeas corpus petition under 28 U.S.C. § 2241 is proper. *See Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

STATEMENT OF FACTS

24. Petitioner is a 64-year-old citizen of Mexico. He has two U.S. citizen children. He first entered the United States on or around the year 1987 and has remained continuously present ever since.
25. On or about November 10, 2025, at or around 9:00 A.M, Petitioner was unlawfully detained by ICE in Lawndale, California while he was walking to work. [See Exhibit B: “Declaration of Petitioner Jose Castro Martinez”].

26. Petitioner was walking to his work in his McDonalds uniform when he was grabbed from behind and restrained by a man in military gear. *Id.* The man told him he was being arrested “for being here illegally.”
27. Petitioner remained silent while others gathered around him and recorded his arrest. *Id.* Petitioner was frightened by the entire altercation. *Id.* Once he was restrained, he spoke because he did not know what the officers were going to do to him. *Id.* He felt as if he had no choice but to talk to the officers. *Id.*
28. There was two other people around Petitioner, and Petitioner contends that they were left unbothered. *Id.* He feels that he was unjustly arrested because of his race because he looks Hispanic. *Id.* Petitioner was not given a reason for his arrest, and he was not shown any warrant for his arrest. *Id.*
29. On November 1, 2025, Petitioner was denied release from custody under bond by Order of the Immigration Judge. The Court contended that it lacks jurisdiction to redetermine custody under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). [See Exhibit C: “Executive Office for Immigration Review Order Denying Petitioners Release Under Bond Dated November 1, 2025”].
30. On December 5, 2025, Petitioner was once again denied custody redetermination. The Court again contended that it lacked jurisdiction based on *Matter of Yajure Hurtado*. [See Exhibit D: ““Executive Office for Immigration Review Order Denying Petitioners Release Under Bond Dated December 5, 2025”].
31. On November 21, 2025, Petitioner through his attorney filed a Motion to Suppress Evidence which was continued for an evidentiary hearing.

32. Petitioner has been detained at this facility for almost a month. He has exhausted all measures to seek release from ICE and EOIR and has not been granted a fair opportunity. ICE has not identified any exceptional circumstances warranting Petitioner's continued detention under their policy. His detention violates the Immigration and Nationality Act and his Fourth and Fifth Amendment rights and continued detention under these circumstances is unlawful.

LEGAL FRAMEWORK

33. The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. It is a fundamental tenet of Fourth Amendment law that "a search or seizure of a person must be supported by probable cause particularized with respect to that person." *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979).

34. Furthermore, 8 C.F.R. § 287.8(b)(2) provides that for an immigration officer to lawfully detain a person they suspect to be in the country illegally they must have "a 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 an alien illegally in the United States." The Court of Appeals for the Ninth Circuit has held that ICE agents that "carr[ie]d out preplanned mass detentions, interrogations, and arrests [. . .]; without individualized reasonable suspicion" violates 8 C.F.R. § 287.8(b)(2). *Perez Cruz v. Barr*, 926 F.3d 1128,1133 (9th Cir. 2019). Most recently, on August 1, 2025, the Ninth Circuit upheld a temporary restraining order barring the federal government from conducting detentive stops for the purposes of immigration enforcement without first establishing individualized, reasonable suspicion that the person to be stopped is unlawfully in the United States. *Vasquez*

Perdomo v. Noem, No. 25-4312, 2025 WL 2181709 (9th Cir. Aug. 1, 2025). Although, the Supreme Court has issued a temporary stay of the Ninth Circuit injunction, the court's order in *Noem v. Vasquez Perdomo*, No. 25A169, 606 U.S. ____ (2025), reaffirms the constitutional requirement that immigration related stops must be based on individualized, reasonable suspicion of unlawful presence, and that reliance solely on race, language, or other proxies for national origin is insufficient under the Fourth Amendment. Longstanding precedent, including *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975), remains controlling emphasizing that while ethnicity may be one factor among many, it cannot be the sole or primary justification for a stop.

35. The Due Process Clause requires that the deprivation of Petitioners' liberty be narrowly tailored to serve a compelling government interest. See *Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”). As the Supreme Court held in *Zadvydas*, indefinite detention, and detention without adequate procedural protections, would raise a “serious constitutional problem” and run afoul of the Due Process Clause. 533 U.S. at 690.

36. Section 1226(a) authorizes the Attorney General to arrest and detain a noncitizen “pending a decision on whether the alien is to be removed.” Detention under § 1226(a) is discretionary and permits release on bond or conditional parole unless the person falls within the limited mandatory detention provisions of § 1226(c). The Ninth Circuit has held that individuals detained under § 1226(a) are entitled to individualized bond hearings where the government bears the burden to show, by clear and convincing evidence, that continued detention is

justified by flight risk or danger. *Rodriguez v. Robbins*, 804 F.3d 1060, 1078 (9th Cir. 2015), vacated on other grounds, *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). When detention under § 1226(a) becomes prolonged, it must remain reasonably related to its purposes of ensuring appearance and protecting the community. See *Demore v. Kim*, 538 U.S. 510, 531 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Continued detention without a final order of removal, absent these justifications, is arbitrary, excessive, and violates the Due Process Clause.

37. On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025). The Board held that any noncitizen present in the United States without inspection or admission is subject to detention under INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)), rather than § 236(a) (8 U.S.C. § 1226(a)). This interpretation treats all such noncitizens as “applicants for admission” and places them in mandatory detention without bond eligibility before immigration judges.
38. The decision overruled longstanding agency practice that classified interior arrests of noncitizens who entered without inspection under INA § 236(a) (8 U.S.C. § 1226(a)), which permits discretionary release on bond or parole. Under *Yajure Hurtado*, only those noncitizens who have been formally “admitted,” as defined in INA § 101(a)(13)(A), retain bond eligibility.
39. The Central District of California has rejected DHS’s attempt to treat interior-arrest noncitizens as mandatory detainees under § 1225(b). (*Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, TRO Order (C.D. Cal. July 28, 2025)). In *Maldonado Bautista v. Santacruz*, the court granted a Temporary Restraining Order enjoining DHS from detaining similarly situated individuals without providing an individualized § 1226(a) bond hearing, holding that

DHS's reliance on § 1225(b) for interior arrests was unconvincing and inconsistent with the statutory framework. *Id.* The court concluded that individuals arrested inside the United States and detained under § 1226(a) were being unlawfully deprived of the procedural protections guaranteed by that statute, including a bond hearing before a neutral adjudicator. *Id.*

CLAIMS FOR RELIEF

**COUNT ONE
Violation Of Immigration and Nationality Act**

40. Petitioner realleges and incorporates by reference the paragraphs above.
41. The Immigration and Nationality Act at § 236(a), 8 U.S.C. § 1226(a) authorizes the Attorney General to arrest and detain a noncitizen “pending a decision on whether the alien is to be removed,” but expressly permits release on bond or conditional parole. This provision governs the detention of individuals, like Petitioner, who have not been ordered removed and whose proceedings remain pending.
42. Detention under § 1226(a) must remain reasonably related to its purposes of ensuring appearance at removal proceedings and protecting the community. When those justifications no longer apply, continued custody exceeds the scope of the statute. See *Demore v. Kim*, 538 U.S. 510, 529–31 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
43. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 830 (2018), distinguished between the discretionary detention authority in § 1226(a) and the mandatory detention provisions of § 1226(c). *Jennings* held that § 1226(a) allows for release on bond or conditional parole and does not itself impose mandatory custody. While the Court rejected the imposition of automatic, periodic bond hearings as a matter of statutory interpretation, it left open the constitutional question of whether prolonged detention without an individualized hearing

violates due process. *See id.* at 851 (remanding to consider constitutional claims). Subsequent courts have recognized that such prolonged detention without a hearing raises serious due process concerns. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021) (holding that due process requires the government to justify continued § 1226(a) detention by clear and convincing evidence of danger or by a preponderance of evidence of flight risk).

44. Following *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), Respondents have adopted a blanket interpretation that classifies all noncitizens who entered without inspection as subject to mandatory detention under § 1225(b), thereby denying bond eligibility to those properly detained under § 1226(a). This interpretation is inconsistent with the statute and longstanding practice, resulting in the unlawful denial of individualized bond determinations.
45. Section 1225 begins with a definitional provision: “An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. § 1225(a)(1) (emphasis added). This clause is limited to the use within this chapter. This definition does not confer detention authority, nor does it collapse the carefully separated detention schemes that Congress established in §§ 1225(b) and 1226. The fact that a noncitizen is deemed an applicant for admission “for purposes of this chapter” does not mean he is subject to the mandatory detention provisions of § 1225(b). Those provisions apply only to the specific categories of applicants described in § 1225(b)(1) and (b)(2), which consist primarily of “arriving aliens” inspected at the border or individuals whom DHS affirmatively places into expedited removal. Petitioner does not fall into either category. He was arrested in the interior, placed directly into § 240

proceedings, and was never processed through the inspection or expedited-removal tracks that trigger § 1225(b)'s mandatory-detention scheme.

46. By contrast, § 1226 “generally governs the process of arresting and detaining” noncitizens “present in the country” who are placed into full removal proceedings under 8 U.S.C. § 1229a. *Jennings*, 583 U.S. at 288. The Supreme Court has been explicit: “§ 1225(b) applies primarily to aliens seeking entry into the United States (‘applicants for admission’ in the language of the statute).” *Id.* at 297. “Section 1226 applies to aliens already present in the United States.” *Id.* at 303. Section 1226(a) then “sets out the default rule,” permitting, but not requiring, the Attorney General to detain such individuals and expressly authorizing their release on bond. *Id.* at 288.
47. Here, Petitioner is detained under 8 U.S.C. § 1226(a), which governs pre-final-order detention for individuals in ongoing removal proceedings. Respondents’ continued detention of Petitioner without affording a bond hearing violates § 1226(a)’s plain language and structure. Detention under § 1226(a) must be justified by legitimate governmental interests, however DHS has not demonstrated that Petitioner presents a flight risk or danger to the community, making his continued detention is arbitrary, excessive, and contrary to law.
48. Petitioner is a Mexican national who has lived in the United States since 1987. He was detained in California and DHS served him with a Notice to Appear. [See Exhibit B: “Notice to Appear for Petitioner Jose Castro Martinez”]. He is in extensive removal proceedings under § 1229a. He was not arrested at a port of entry, was not processed as an “arriving alien” at the border and was not ordered removed under § 1225(b)(1).
49. District courts considering nearly identical fact patterns have consistently held that long-term residents arrested in the interior and placed directly into § 240 proceedings are detained

under § 1226(a), not § 1225(b)(2)(A). *Mosqueda*, 2025 WL 2591530, at *6 (holding that § 1226(a), not § 1225(b)(2), applies “to individuals who, like petitioners, have been residing in the United States and did not apply for admission or a change of status”); *Salazar v. Noem*, 2025 WL 2676729, at *4 (D.N.M. 2025) (finding that petitioner who had lived in the United States since the 1980s was not “seeking admission” and was detained under § 1226(a)); *Garcia Domingo v. Noem*, 2025 WL 2941217, at *4 (D.N.M. 2025); *Pastrana-Saigado v. Noem*, No. 2:25-cv-00950-MLG-LF, Doc. 17, Doc. 24; *Cortez-Gonzalez v. Noem*, No. 2:25-cv-00985-MLG-KK, Doc. 2, Doc. 16; *Buenrostro-Mendez v. Bondi*, 2025 WL 2886346, at *3 (S.D. Tex. 2025); *Sampiao v. Hyde*, 2025 WL 2607924, at *8 (D. Mass. 2025); *Kostak v. Trump*, 2025 WL 2472136, at *3 (W.D. La. 2025); *Martinez-Elvir v. Bondi*, 2025 WL 3006772, at *8 (D. Minn. 2025); *Caballero v. Baltazar*, 2025 WL 2977650, at *7 (D. Colo. 2025).

50. Notably, The Central District of California has rejected DHS’s attempt to treat interior-arrest noncitizens as mandatory detainees under § 1225(b). (*Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, TRO Order (C.D. Cal. July 28, 2025)). In *Maldonado Bautista v. Santacruz*, the court granted a Temporary Restraining Order enjoining DHS from detaining similarly situated individuals without providing an individualized § 1226(a) bond hearing, holding that DHS’s reliance on § 1225(b) for interior arrests was unconvincing and inconsistent with the statutory framework. *Id.* The court concluded that individuals arrested inside the United States and detained under § 1226(a) were being unlawfully deprived of the procedural protections guaranteed by that statute, including a bond hearing before a neutral adjudicator. *Id.*

51. The district court confirmed that its statutory and constitutional conclusions apply beyond the

named petitioners, holding that “the same declaratory relief granted to Petitioners” extends to “the Bond Eligible Class as a whole.” That class is defined as “all noncitizens in the United States without lawful status who (1) entered without inspection; (2) were not apprehended upon arrival; and (3) are not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time DHS makes an initial custody determination.” Respondent fits squarely within this class of interior-arrest individuals whom DHS improperly subjected to § 1225(b), thereby depriving them of the procedural protections mandated by § 1226(a). As in *Maldonado Bautista*, this misclassification renders Respondent’s continued detention inconsistent with due process.

52. Here, Petitioner is in the same posture as the Petitioners in *Maldonado Bautista*. He was arrested in the interior and denied multiple bond hearings solely because DHS asserted § 1225(b) applied. Under *Maldonado Bautista*, such detention is unlawful, and Petitioner is entitled to habeas relief directing the government to provide a prompt § 1226(a) bond hearing or order his release.

53. Petitioner has strong family and community ties in the United States. He has lived in the United States since on around 1987. He is a father to two U.S. citizen children. Petitioner has no criminal history that would make him a danger, and he has submitted dozens of letters of support demonstrating his strong moral character and deep community ties. Because Petitioner is detained under § 1226(a), the statute affords him the right to seek release on bond upon an individualized determination. Respondents’ refusal to provide such a hearing contravenes § 1226(a)’s discretionary framework and exceeds the limited detention authority Congress provided.

54. Accordingly, the Court should declare that Respondents lack statutory authority to detain

Petitioner under § 1226(a) without providing a constitutionally adequate bond hearing and should order either (1) a prompt bond hearing before an Immigration Judge at which the government bears the burden of proof, or (2) Petitioner's release from custody pursuant to 28 U.S.C. § 2241.

COUNT TWO
Violation of Fourth Amendment Unreasonable Search and Seizure

55. The allegations in the above paragraphs are realleged and incorporated herein.

56. The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV. Within the meaning of the Fourth Amendment a person has been "seized" only if, 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 (1980). If the person to whom questions are put remains free to disregard the questions and walk away, there has been no intrusion upon that person's liberty or privacy as would require some particularized and objective justification. *Id.* It is a fundamental tenet of Fourth Amendment law that “a search or seizure of a person must be supported by probable cause particularized with respect to that person.” *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979). In addition, 8 C.F.R. § 287.8(b)(2) provides that for an immigration officer to lawfully detain a person they suspect to be in the country illegally they must have “a 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 an alien illegally in the United States.”

57. Here, ICE agents engaged in at least two types of egregious violations of the Fourth Amendment. First, the ICE agents used coercion and duress during the search and second,

they lacked reasonable suspicion to seize the Petitioner, ICE targeted the Petitioner based on his race, color of his skin and location.

58. The agents' actions constituted a non-consensual seizure under the Fourth Amendment.

Petitioner was grabbed from behind and restrained by a man wearing military gear. *Id.* He was immediately told he was being arrested for "being here illegally" without probable cause. *Id.* Petitioner was afraid because he did not know why he was being arrested. *Id.* He was also afraid because he did not know what the men were going to do to him or what was going on around him. *Id.* A reasonable person in Petitioners position would feel fear upon being approached and grabbed from behind by a man wearing military gear. *Id.*

59. Petitioner contends that he submitted to questioning under fear and coercion. *Id.* These circumstances created an environment of coercion and duress, effectively compelling a reasonable person to feel as if they are not free to leave.

60. In addition, Petitioner was detained without reasonable suspicion, in violation of the Fourth Amendment's safeguard against unreasonable seizures. The seizure was unsupported by reasonable suspicion because the officers relied solely on racial appearance, which is impermissible under *Brigoni-Ponce*. ICE agents detained Petitioner without individualized, reasonable suspicion, instead relying on his appearance, location, and name. *Id.*

61. It is clear based on the declarations provided that the Petitioner was simply present at his on the sidewalk while walking to work when he was detained without reason. *Id.* Petitioner was wearing his McDonalds uniform when he was apprehended. The officers did not have any reasonable suspicion that petitioner was personally involved in illegal activity. ICE agents did not provide Petitioner with a basis for targeting him. *Id.*

62. For these reasons, Petitioner's detention violates the Fourth Amendment, and he must be immediately released.

COUNT THREE
Violation of Fifth Amendment Due Process Clause

63. The allegations in the above paragraphs are realleged and incorporated herein.

64. 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. "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 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. See *id.* at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.*; *Demore v. Kim*, 538 U.S. 510, 514–15, 528 (2003). Courts have further held that prolonged detention under 8 U.S.C. § 1226(a) implicates due process and requires the government to justify continued confinement at a meaningful bond hearing. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021) (requiring the government to prove danger by clear and convincing evidence or flight risk by a preponderance of the evidence).

65. The due process concerns identified in *Maldonado Bautista v. Santacruz* further demonstrate that Respondent's continued detention without a bond hearing is unconstitutional. In granting the TRO, the court found that DHS's misapplication of § 1225 deprived interior-arrest noncitizens of the legal protections guaranteed under § 1226(a), raising "serious question[s]" as to whether DHS had permissibly altered its detention practices to withhold statutory and

constitutional safeguards. TRO Order at 5–7. The court emphasized that continued detention under an unlawful policy serves “neither equity nor the public interest,” and “potentially arbitrarily violates due process rights.” *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022); see also *Xuyue Zhang v. Barr*, 612 F. Supp. 3d 1005, 1017 (C.D. Cal.) (public interest is implicated whenever constitutional rights are denied). As in *Maldonado Bautista*, Respondent’s detention under the incorrect statutory framework deprives him of the procedural protections mandated by § 1226(a), rendering his continued detention fundamentally inconsistent with the Fifth Amendment. This concern is heightened because Respondent was previously denied a bond hearing based on *Matter of Yajure-Hurtado*, which relied on the same misapplication of § 1225(b) that the district court rejected.

66. First, Petitioner does not pose a danger to the community. Petitioner has lived in the United States for around 38 years and has built deep ties to his family and community. He does not have a criminal history. Petitioner’s son states that, “he treats everyone with so much kindness” and that he is “selfless, loving, and always willing to sacrifice for his children.” [See Exhibit E: “Letters of Support for Petitioner Jose Castro Martinez”]. His community regards him as a person who “believes in giving back, helping those around him, and staying connected to his community.” *Id.* Petitioner has submitted dozens of letters from family members, employers, community leaders, and long-time acquaintances, all attesting to his integrity, reliability, and deep roots in the community. These letters uniformly affirm that Petitioner poses no danger to the community and would continue to be a positive presence if released. If Petitioner been afforded a bond hearing, he would have been a strong candidate for release because he has no disqualifying criminal history, and the record overwhelmingly supports a finding that he is not a danger to the community.

67. Second, Petitioner does not pose a risk of flight. He has maintained a consistent residence and strong familial and community support network. *Id.* He has fired counsel, Alfonso Morales, to represent him in his immigration matters. He is currently in the process of submitting an asylum application, further demonstrating his compliance with immigration procedures and his commitment to resolving his case lawfully through the judicial process. Prior to his detention, he worked regularly. *Id.* His family's reliance on him for financial and emotional support demonstrates stability, accountability, and deep roots in the community. *Id.* These factors establish that Petitioner can and will comply with any conditions of release set by the Court or an Immigration Judge.

68. For these reasons, Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment, and he must be immediately released. The Court should order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before an Immigration Judge, at which the Government bears the burden of demonstrating flight risk or danger.

COUNT FOUR

69. If he prevails, Petitioner requests attorney's fees and costs in the amount of \$5,000 under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter.
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

- (3) Declare that Petitioners' detention violates the Immigration and Nationality Act, Due Process Clause of the Fourth Amendment, Due Process Clause of the Fifth Amendment.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (5) Enjoin Respondents from further unlawfully detaining Petitioners.
- (6) Grant a writ of habeas corpus ordering Respondents to immediately release Petitioners from custody.
- (7) In the alternative, grant a writ of habeas corpus ordering Respondents to immediately release Petitioners from custody under reasonable conditions of supervision.
- (8) In the alternative, grant a writ of habeas corpus ordering Respondents to provide Petitioner with a prompt and individualized bond determination hearing pursuant to 8 U.S.C. § 1226(a), before a neutral Immigration Judge, at which the Government bears the burden of proving that Petitioner is a danger to the community by clear and convincing evidence or a flight risk by a preponderance of the evidence.
- (9) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law and
- (10) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Alfonso Morales
Alfonso Morales, Esq.
Attorney for Jose Castro Martinez

Dated: December 05, 2025

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

I represent Petitioner, Jose Castro Martinez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 5 day of December 2025.

/s/ Alfonso Morales
Alfonso Morales, Esq.
Attorney for Jose Virgilo Martinez Aranda