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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PEDRO GARCIA DUARTE)

Petitioner,)

v.)

*Warden of ADELANTO DETENTION)
FACILITY; Ernesto Santacruz Jr in his official)
Capacity as Field Office Director of the)
Immigration and Customs Enforcement,)
Enforcement and Removal Operations)
ADELANTO 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.)

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION


1. This petition for Writ of Habeas Corpus filed on behalf of Petitioner Pedro Garcia Duarte (“Petitioner”) to remedy his unlawful detention.
2. Petitioner is a native of Mexico, born on . He first entered the United States on or around the year 1985.
3. He is the father of a U.S. citizen minor child who has an autism diagnosis and requires substantial daily support, and he is the primary support for his spouse, who is blind. [See

Exhibit E: “Psychological Evaluation for Petitioner’s Son”). Petitioner himself suffers from serious medical conditions that require ongoing treatment, including management of a gastric bag and the need for colorectal surgery. [See Exhibit F: “Medical Documents of Petitioner Pedro Garcia Duarte”].

4. On November 02, 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 A: “Declaration of Petitioner Pedro Garcia Duarte”].
5. On November 11, 2025, Petitioner, through counsel, submitted a Request for Humanitarian Parole to his assigned ICE officer. Petitioner presented documentation of his serious and ongoing medical conditions and explained the urgency of his need for appropriate treatment. [See Exhibit F: “Medical Documents of Petitioner Pedro Garcia Duarte”]. ICE denied the request on December 8, 2025. [See Exhibit C: “Notice Denying Parole Request for Petitioner Pedro Garcia Duarte”].
6. On December 1, 2025, Petitioner also submitted a request for a bond redetermination to the Immigration Judge under Section 1226(a). The request has not been adjudicated, and it continues to remain pending with no response from the court.
7. Petitioner intends to file an Application for Cancellation of Removal, EOIR 42B, based on his exception and extremely unusual hardship with his U.S. citizen minor child, his good moral character, and his continuous physical presence of over 10 years.
8. Petitioner relies on a gastric bag and urgently requires colorectal surgery, care that cannot be adequately provided in detention. [See Exhibit F: “Medical Documents of Petitioner Pedro Garcia Duarte”].

9. He is the primary support for his blind wife and their child who has a high-support-needs autism diagnosis. His family depends on him for daily functioning.
10. Petitioner has exhausted all available legal remedies with ICE and EOIR to seek release.
11. 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

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
13. 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).
14. 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

15. 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 Adelanto Detention Facility in Adelanto, California, which is within the jurisdiction of this District.
16. 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 at Adelanto Detention Facility in Adelanto, California. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

17. 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).
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) (emphasis added).

PARTIES

19. Petitioner was arrested by ICE officers on November 02, 2025, and was transferred to Adelanto Detention Facility where he is currently detained. He is in custody, and under the direct control, of Respondents and their agents.
20. The Acting Warden of Adelanto 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.
21. Respondent Ernesto Santacruz Jr is sued in his official capacity as the Acting Director of the Los Angeles Field Office of U.S. Immigration and Customs Enforcement. Respondent Santacruz is a legal custodian of Petitioner and has authority to release him.
22. 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.

23. 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

24. Petitioner has exhausted all administrative remedies available to him. He is currently detained at the Adelanto Detention Facility under the custody of U.S. Immigration and Customs Enforcement ("ICE"). After his arrest, Petitioner sought release from custody through all available administrative avenues.
25. On November 11, 2025, Petitioner, through counsel, submitted a Request for Humanitarian Parole based on his serious and ongoing medical conditions. ICE denied that request on December 8, 2025, without meaningfully addressing the medical evidence he provided. [*See* Exhibit C: "Notice Denying Parole Request for Petitioner Pedro Garcia Duarte"]. Petitioner also submitted a bond redetermination request to the Immigration Judge on December 1, 2025. That request remains pending, and the Immigration Judge has not issued any decision. As a result, Petitioner continues to be detained without having received a bond hearing under Section 1226(a).

26. No further administrative process exists to challenge his ongoing detention or to obtain the relief sought. 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

27. Petitioner is a 74-year-old citizen of Mexico. He has resided in this country since 1985 and is the father of a U.S. citizen minor child. [See Exhibit D: “Birth Certificate of Petitioner’s USC Son”].

28. His son, G [REDACTED] has an autism diagnosis that falls under level 2 of severity and requires substantial daily support. [See Exhibit E: “Psychological Evaluation for Petitioner’s Son”]. Gabriel also has an unspecified Attention Deficit/Hyperactivity Disorder and Specific Learning Disorders with impairments in reading, written expression, and mathematics. *Id.* G [REDACTED]’s scores on the Autism Diagnostic Interview exceed diagnostic cutoffs in all areas, confirming the high level of support he requires. *Id.*

29. Petitioner’s son, G [REDACTED] lives with Petitioner and his mother, Gilberta Rios. Mrs. Rios is blind and relies on Petitioner for daily assistance. Petitioner is the only adult in the household able to provide the physical care and support that G [REDACTED] requires. Petitioner accompanies G [REDACTED] to his medical appointments, provides financial support for his treatment, and assists him with his daily needs. *Id.*

30. G [REDACTED] is highly reactive, struggles socially, does not have close friends, and has been a victim of bullying, making his parents his primary source of stability and comfort. *Id.* Petitioner’s detention has left G [REDACTED] without the parent who provides the daily care, continuity, and emotional stability he needs.

31. Petitioner suffers from serious and ongoing medical conditions that require specialized and consistent care. [See Exhibit F: “Medical Documents of Petitioner Pedro Garcia Duarte”]. He lives with a gastric bag that must be cleaned and maintained daily to prevent infection. *Id.* In the past, complications related to this condition resulted in a two-month hospitalization. His health remains fragile, and any lapse in sanitary maintenance or medical oversight places him at significant risk for infection and rapid deterioration.
32. Petitioner is also scheduled to undergo colorectal surgery to repair his bladder. *Id.* This procedure is medically necessary and time-sensitive.
33. Petitioner has no criminal history. Before his detention, he lived peacefully in the community, worked consistently, and supported his family.
34. Petitioner is currently pursuing relief in his immigration proceedings, including an application for Cancellation of Removal under Section 240A(b)(1). He has maintained continuous physical presence in the United States for nearly forty years, has demonstrated good moral character for the statutory period, and has no criminal convictions. His removal would cause exceptional and extremely unusual hardship to his U.S. citizen child, who depends on Petitioner for daily care, medical support, transportation to appointments and therapy, and emotional stability.
35. On November 02, 2025, Petitioner was unlawfully detained by ICE. [See Exhibit A: “Declaration of Petitioner Pedro Garcia Duarte”]. Petitioner was sitting and waiting for his employer to pick him up for work when an unmarked vehicle stopped near him. *Id.*
36. The individuals who exited the vehicle were dressed in military-style clothing, and Petitioner did not know who they were or what agency they represented. *Id.* They approached him without identifying themselves and physically detained him. *Id.*

37. Petitioner believed he was under arrest and felt obligated to answer their questions. *Id.* Any statements he made, including acknowledging that he was not from the United States, occurred only after he was already physically detained and under the clear impression that he was not free to leave. *Id.*
38. On November 11, 2025, Petitioner, through counsel, submitted a Request for Humanitarian Parole to his assigned ICE officer. ICE denied the request on December 8, 2025. [*See Exhibit C: "Notice Denying Parole Request for Petitioner Pedro Garcia Duarte"*]. The denial provides no substantive explanation and disregards the medical risks Petitioner faces in detention, underscoring the unreasonableness of continuing to confine him under these conditions.
39. On December 1, 2025, Petitioner also requested a bond redetermination from the Immigration Judge under Section 1226(a). This request also remains pending with no response from the court.
40. Petitioner's ongoing detention has cut him off from essential medical treatment and from his ability to care for his family. His serious medical condition, the denial of humanitarian parole despite documented urgency, the pending bond redetermination request, and the significant hardship imposed on his U.S. citizen family all underscore the critical need for judicial intervention.
41. Petitioner has been detained at this facility for over 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

42. 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).
43. 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 Ninths 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.

44. 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.

45. 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.

46. 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.
47. 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.
48. 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

49. Petitioner realleges and incorporates by reference the paragraphs above.
50. 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.
51. 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).
52. 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).

53. 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.

54. 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.

55. 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.

56. 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.

57. Petitioner is a Mexican national who has lived in the United States since 1985. He was detained in California and DHS served him with a Notice to Appear. [*See* Exhibit C: “Notice to Appear for Petitioner Pedro Garcia Duarte”]. 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).

58. 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).

59. 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.*

60. 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 satisfies each of

these criteria. He entered without inspection, he was not apprehended at the border, and he is not subject to mandatory detention under any of the statutory provisions listed above. As in *Maldonado Bautista*, this misclassification makes Respondent's continued detention without a bond hearing inconsistent with due process.

61. Petitioner has strong family and community ties in the United States. He has lived in the United States since on around 1985. He is a father to a U.S. citizen child who is diagnosed with severe Autism. [See Exhibit E: "Psychological Evaluation for Petitioner's Son"]. Petitioner has no criminal history that would make him a danger. 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.
62. 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

63. The allegations in the above paragraphs are realleged and incorporated herein.
64. 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.”

65. Here, ICE agents engaged in multiple egregious violations of the Fourth Amendment. First, the agents used coercion and duress in obtaining statements from Petitioner after physically restraining him. Second, the agents lacked reasonable suspicion to seize Petitioner. ICE targeted Petitioner based on his perceived race, the appearance of those around him, and his location rather than on any individualized facts.

66. The agents' conduct constituted a non-consensual seizure under the Fourth Amendment. Petitioner was sitting and waiting for his employer to pick him up for work when an unmarked vehicle stopped and men dressed in military-style clothing approached him without identifying themselves. [*See* Exhibit A: “Declaration of Petitioner Pedro Garcia Duarte”]. They physically detained him, and Petitioner immediately believed he was under arrest. *Id.* A reasonable person in Petitioner's position would not have felt free to leave when approached and restrained by unidentified men in military-style gear. *Id.*

67. Any statements Petitioner made occurred only after he was already physically detained, afraid, and uncertain of who the men were or what authority they claimed to have. *Id.* Petitioner understood that he was obligated to answer their questions because he was not free to walk away. *Id.* These circumstances created a coercive environment amounting to duress, and any answers given were not voluntary. *Id.*
68. In addition, Petitioner was detained without reasonable suspicion, in violation of the Fourth Amendment's prohibition on unreasonable seizures. The agents had no individualized basis to suspect Petitioner of unlawful activity. Instead, their actions relied solely on racial appearance and his presence in a public location. Reliance on race or ethnicity alone is impermissible under *United States v. Brignoni-Ponce*, and ICE agents lacked any specific, articulable facts to justify stopping or detaining him.
69. The record shows that Petitioner was simply sitting at a lawful location, waiting to be picked up for work, when ICE agents detained him without reason. Petitioner was not involved in any suspicious conduct, and the agents never articulated a basis for targeting him. Without individualized reasonable suspicion, the seizure was unlawful.
70. 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

71. The allegations in the above paragraphs are realleged and incorporated herein.
72. 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).

73. 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.

74. First, Petitioner does not pose a danger to the community. He has lived in the United States for nearly forty years, has deep roots in his community, and has never been arrested or convicted of any crime. Nothing in the record suggests that Petitioner presents any risk of harm, and all available evidence demonstrates that he would pose no danger if released. Petitioner is the primary caregiver for his U.S. citizen minor son, who has an autism diagnosis requiring substantial daily support, and he is also the primary support for his U.S. citizen spouse, who is blind and relies on him for assistance with daily tasks, appointments, and mobility. Had he been provided a bond hearing under Section 1226(a), the record strongly supports that he would have been an appropriate candidate for release.
75. Second, Petitioner does not pose a risk of flight. Petitioner is the primary support for his blind spouse and his U.S. citizen minor child, who has an autism diagnosis that requires substantial daily support. Before his detention, Petitioner worked regularly and provided both financial and caregiving support for his family. His ongoing efforts to pursue relief in immigration court further demonstrate his desire to comply with all legal requirements and resolve his case through the proper channels. These circumstances confirm that Petitioner is a stable, responsible, and deeply rooted member of his community who will comply with any conditions of release set by the Court or by an Immigration Judge.
76. 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

77. 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 Pedro Garcia Duarte

Dated: December 09, 2025

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

I represent Petitioner, Pedro Garcia Duarte, 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 9 day of December 2025.

/s/ Alfonso Morales
Alfonso Morales, Esq.
Attorney for Pedro Garcia Duarte

INDEX IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

PETITIONER PEDRO GARCIA DUARTE

EXHIBIT	DESCRIPTION
<u>A</u>	COPY OF DECLARATION FOR PETITIONER PEDRO GARCIA DUARTE
<u>B</u>	COPY OF NOTICE TO APPEAR FOR PETITIONER PEDRO GARCIA DUARTE
<u>C</u>	COPY OF NOTICE OF THE ICE FIELD OFFICE DIRECTOR DENYING PAROLE REQUEST FOR PETITIONER PEDRO GARCIA DUARTE
<u>D</u>	COPY OF BIRTH CERTIFICATE FOR PETITIONER PEDRO GARCIA DUARTE'S SON
<u>E</u>	COPY OF PSYCHOLOGICAL EVALUATION FOR PETITIONER PEDRO GARCIA DUARTE'S SON
<u>F</u>	COPY OF MEDICAL DOCUMENTS FOR PETITIONER PEDRO GARCIA DUARTE