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15 UNITED STATES DISTRICT COURT
16 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
17

18 **MANUEL ELICEO GUALAN JAPON**
19 Plaintiff and Petitioners
20

Case No.: '25CV3618 BTM BJW

21 vs.
22

Judge

23
24 CHRISTOPHER LAROSE Warden of the
25 Otay Mesa Detention Center; Gregory
26 ARCHAMBEAULT, Director of the San
27 Diego Field Office, United States
28 Immigration and Customs Enforcement;
PAM BONDI, Attorney General, United
States Department of Justice; KRISTI
NOEM, Secretary, United States Department
of Homeland Security; TODD LYONS,
Acting Director of Unites States Immigration
and Customs Enforcement; and DOES 1-5

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS
AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Defendants-Respondents

INTRODUCTION

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF - 1

1 1. This case challenges the unlawful and punitive detention of Plaintiff-Petitioner,
2 who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at
3 the Otay Mesa Detention Center, Otay Mesa, California. Petitioner is neither a flight
4 risk nor a danger to the community.
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8
9 2. Unless the Court orders Petitioner’s immediate release, he will continue to be
10 subjected to unlawful and punitive detention.
11

12
13 3. Plaintiffs-Petitioners further challenge the legality of Respondents’ uniform
14 policy and practice of subjecting noncitizens to arrests and detention without probable
15 cause.
16
17

18
19 4. Plaintiff-Petitioner is not challenging or seeking judicial review of the initiation
20 of removal proceedings, the way his removal proceedings are or will be conducted, or
21 the denial of immigration relief by the EOIR or USCIS.
22

23 5. Through their uniform practices Respondents violate the rights of Petitioner
24 under the due process and equal protection guarantees of the U.S. Constitution, the
25 INA and its regulations, and the Administrative Procedure Act.
26
27
28

JURISDICTION AND VENUE

6. This action arises under the Constitution of the United States; the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570 [hereinafter ‘INA’]; and Administrative Procedure Act, 5 U.S.C. §§ 701 et seq [hereinafter “APA”].

1 7. This Court has further jurisdiction under 28 U.S.C. § 2241, 2243, art. I § 9,
2
3 cl. 2 of the United States Constitution (“Suspension Clause”), and 28 U.S.C. §
4
5 1331, as Petitioner is presently in custody and such custody is in violation of the
6
7 Constitution, laws, or treaties of the United States.

8
9 8. This Court also may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. §
10
11 702, and the All Writs Act, 28 U.S.C. § 1651.

12
13 9. This court has further remedial authority pursuant to the Declaratory
14
15 Judgment Act, 28 U.S.C. § 2201 et seq..

16
17 10. The use of the Writ of Habeas Corpus to challenge detention by ICE is not
18
19 foreclosed by the REAL ID Act. The REAL ID Act of 2005, Pub. L. 109-13, 119
20
21 Stat. 231 (May 11, 2005), Title I, Section 106(c), amending INA §§ 242(a)(2)(A),
22
23 (B), (C) and § 242(g), only deprives the district court of habeas jurisdiction to
24
25 review orders of removal, not challenges to detention or the denial of constitutional
26
27 rights. *See INS v. St. Cyr*, 533 U.S. 289, 364-65 (2001) (“The writ of habeas corpus
28
has always been available to review the legality of executive detention.”).

11. This Court could enjoin federal officials pursuant to *Ex Parte Young*, 209
U.S. 123 (1908). *See Philadelphia Co. v. Stimson*, 223 U.S. 605, 619–21 (1912)
(applying *Ex Parte Young* to federal official); *Goltra v. Weeks*, 271 U.S. 536, 545
(1926) (same).

12. Plaintiff-Petitioner has exhausted all administrative remedies to the extent
available and required by law.

1 13. Venue properly lies within the Southern District of California, because each
2
3 named Defendant-Respondent is present in this district and a substantial part of the
4
5 events or omissions giving rise to this action occurred and continue to occur in this
6
7 District. *See* 28 U.S.C. §1391(b). Petitioner is currently detained within this district
8
9 to wit, at the Otay Mesa Detention Facility located at 7488 Calzada De La Fuente,
10
11 San Diego, CA 92154. See Exhibit A. Accordingly, the “restraint complained of”
12
13 is occurring within the Court’s territorial jurisdiction. *See* 28 U.S.C. § 2241(a)
14

15 14. No petition for habeas corpus has previously been filed in any court to
16
17 review this the named Plaintiff-Petitioner’s detention.
18

19 **PARTIES**
20

21 15. Plaintiff-Petitioner **MANUEL ELICEO GUALAN JAPON** is a 47-year-
22
23 old national and citizen of Ecuador who entered the United States without
24
25 inspection approximately 18 years ago. He was arrested on or about 2 November
26
27 2025 during a CBP riad in his neighborhood without a warrant and/or probable
28
cause.

16. The U.S. Department of Homeland Security (“DHS”) is a cabinet
department of the United States federal government with the primary mission of
securing the United States.

17. ICE is an agency within DHS with the primary mission of arresting,
detaining, and removing non-citizens physically present within the territory of the
United States. ICE is also responsible for the custody and care of all detained non-

1 citizens awaiting resolution of their immigration cases or removal after a final
2 order of removal had been entered.
3
4

5 18. Defendant Kristi Noem is the Secretary for DHS. In this capacity, Ms. Noem
6 has responsibility for the administration of immigration laws pursuant to 8 U.S.C.
7 §1103(a), has authority over ICE and its field offices, and has authority to order the
8 release of Plaintiff-Petitioner. At all times relevant to this Complaint,
9 Defendant Noem was acting within the scope and course of her position as the
10 Secretary for DHS. Defendant Noem is sued in her official capacity.
11
12

13 19. Defendant-Respondent Todd Lyons is the Acting Director and Senior
14 Official Performing the Duties of the Director of ICE. Defendant Lyons is
15 responsible for the implementation of all ICE's policies, practices, and procedures,
16 including those relating to detention of non-citizens. Defendant Lyons is a legal
17 and immediate custodian of Petitioner. At all times relevant to this Complaint,
18 Defendant Lyons was acting within the scope and course of his position as an ICE
19 official. He is sued in his official capacity.
20
21

22 20. Defendant-Respondent Gregory Archambeault is the Director of the San
23 Diego Field Office of ICE, which has immediate custody of Plaintiff-Petitioner. He
24 is sued in his official capacity.
25

26 21. Defendant Christopher LaRose is the warden of Otay Mesa Detention
27 Facility in San Diego County, where Plaintiff-Petitioner is currently detained.
28 Exhibit A. Defendant LaRose is the immediate, physical custodian of Petitioner.
He is named in his official capacity.

1 22. The true names or capacities, whether individual, corporate, associate or
2 otherwise, of the Defendants-Respondents named herein as Does 1 through 5 are
3 unknown to Plaintiff-Petitioner, who therefore sues said Respondents by such
4 fictitious names, and Plaintiff will amend this Complaint to show their true names
5 and capacities when ascertained. Does 1 through 5 are the immediate, physical
6 custodians of Plaintiff
7
8
9
10
11

12 **FACTS RELEVANT TO ALL CAUSES OF ACTIONS**

13 23. Plaintiff-Petitioner **MANUEL ELICEO GUALAN JAPON** is a 47 years
14 old national and citizen of Ecuador who entered the United States 2007 without
15 inspection.
16
17
18
19
20

21 24. Petitioner GUALAN JAPON was arrested on or about 2 November 2025 during
22 a large CBP raid in his nationhood in New York City without a warrant and/or
23 probable cause. The Border Patrol officer who initially stopped petitioner GUALAN
24 JAPON did not have a reasonable suspicion to engage in a detentive stop. Prior and at
25 the time of his stop, detention, and arrest Petitioner was unarmed, not engaged in
26 criminal or suspicious activities, nor did he attempted to flee or resist arrest. He was
27 targeted and arrested solely on account of his Latino appearance and inability to
28 respond to questions in English. Exhibit A at ¶ 6.

25. The officers never showed Petitioner a warrant, and they did not ask him any
questions to ascertain whether he was a noncitizen or a flight risk. *Id*

1 26. Petitioner was first detained in New York City, then transferred to a New
2
3 Jersey detention center, and then transferred again and is now detained at the Otey
4
5 Mesa detention center in Otay Mesa.
6

7
8 27. Petitioner was not allowed to post a bond and remains in custody.
9

10 28. The Respondents have refused to release Petitioner from custody
11
12 asserting that he is subject to the mandatory detention under section 1225(b)(2).
13

14
15 29. There is no order of removal in effect against Petitioner.
16

17 **RELEVANT IMMIGRATION STATUTORY SCHEME**

18 **Warrantless Arrests**

19
20
21 30. The Immigration and Nationality Act provides immigration agents with only
22
23 limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2); *see also Arizona*
24
25 *v. U.S.*, 567 U.S. 387, 407–08 (2012). The strict limitations on warrantless arrests are
26
27 further codified in regulations. *See* 8 C.F.R. § 287.8(c)(2)(ii).
28

31. An immigration officer can make an arrest without a warrant only if they have
probable cause to believe that the individual “is in the United States in violation of
any [immigration] law or regulation,” and (2) the individual “is likely to escape
before a warrant can be obtained” for his arrest. § 1357(a)(2); § 287.8(c)(2)(ii)
(same); *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980). The requirement that
officers establish probable cause of flight risk before conducting a warrantless arrest
requires a particularized finding of likelihood of escape. *Mountain High Knitting,*
Inc. v. Reno, 51 F.3d 216, 218 (9th Cir. 1995).

1 32. Since June 2025, however, Respondents have implemented an uniform policy
2 and practice of effectuating warrantless arrests without making any individualized
3 flight risk determinations and requiring officers to abide by this policy.
4
5

6
7 33. Victims and witnesses of such warrantless arrests have uniformly described
8 Respondents and their officers as just grabbing people randomly without asking any
9 questions.
10
11

12
13 34. Arrests pursuant to an I-200 must be based on an existing Notice to Appear
14 (“NTA”), the charging document for removal proceedings. 8 C.F.R. § 236.1(b)(1)
15 (specifying that an administrative warrant of arrest can be issued “[a]t the time of
16 issuance of the [NTA], or at any time thereafter,” not before); 8 U.S.C. § 1229 (legal
17 requirements for NTA). This requirement is necessary because the use of Form I-200
18 is dependent on the arrest occurring “pending a decision” on removal. *See* 8 U.S.C. §
19 1226(a); 8 C.F.R. § 239.2(e) (explaining an I-200 warrant of arrest is *automatically*
20 *canceled* when a NTA is canceled or removal proceedings terminated)
21
22
23
24
25
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27
28

35. The arresting officers here did not have a warrant to arrest Petitioner and did not ask him any questions to assess individualized flight risk or his immigration status prior effectuating the actual arrest.

36. No Notice to Appear has been served on Petitioner or filed with the immigration court either.

Immigration Detention

37. The INA governs the use of immigration detention both pre- and post-final

1 order. Post-final-order immigration detention is governed by 8 U.S.C. § 1231(a);
2
3 pre-final-order detention by 8 U.S.C. § 1226.
4

5 38. In 8 U.S.C. §§ 1226 and 1231 Congress created different, but interrelated,
6
7 comprehensive frameworks for detaining criminal and non-criminal non-citizens.
8

9 39. Section 1226 authorizes the detention of non-citizens during removal
10
11 proceedings: section 1226(a) controls non-criminal aliens' detentions, while
12
13 section 1226(c) controls criminal aliens' detentions. *See* 8 U.S.C. § 1226(a)&(c).
14
15 Once a non-citizen's removal proceedings are completed ICE's detention authority
16
17 is controlled by section 1231, which also distinguishes between non-criminal and
18
19 criminal non-citizens. *See* 8 U.S.C. § 1231.
20

21 *Section 1226(a) and Non-Criminal Non-citizens*
22 *During Removal Proceedings*
23

24 40. The Attorney General has discretion to detain a non-criminal non-citizen
25
26 "pending a decision on whether the alien is to be removed from the United States."
27
28 *See* 8 U.S.C. § 1226(a). The Attorney General may detain the non-citizen for the
duration of the removal proceedings or release him on bond or conditional parole.
See 8 U.S.C. § 1226(a)(1)-(2).

41. In connection with § 1226(a), the DHS promulgated regulations setting out
the process by which a non-criminal non-citizen may obtain release. The
regulations provide that, in order to obtain bond or conditional parole, the "alien
must demonstrate to the satisfaction of the officer that such release would not pose

1 a danger to property or persons, and that the alien is likely to appear for any future
2 proceeding.” *See* 8 C.F.R. § 1236.1(c)(8).
3
4

5 *Section 1226(c) and Criminal Non-citizens*
6 *During Removal Proceedings*
7

8
9 42. Although the Attorney General has broad discretion to release non-criminal
10 non-citizens during the pendency of their removal proceedings, the INA limits the
11 Attorney General’s discretion in the case of criminal non-citizens. Specifically,
12 section 1226(c) mandates that “[t]he Attorney General shall take into custody any
13 alien who . . . is deportable by reason of having committed [certain specified
14 offenses].” *See* 8 U.S.C. § 1226(c)(1)(B).
15
16
17
18
19

20 43. Section 1226(c) provides that the Attorney General may release a criminal
21 non-citizen “only if” necessary for narrow witness protection purposes. *See* 8
22 U.S.C. § 1226(c)(2). Under § 1226(c), custody is mandatory for criminal non-
23 citizens throughout the entirety of their removal proceedings, and there is no
24 statutory possibility for release on bond.
25
26
27
28

44. Petitioner was never detained under the authority of section 1226(c) as he
has no criminal record.

45. When a non-citizen is released on bond or under supervision, the non-citizen
must periodically appear before an immigration officer, obey written restrictions,
and comply with other requirements provided for by regulation. *See* 8 U.S.C. §
1231(a)(3).

Detention Pursuant to 8 U.S.C. § 1225(b)(2)

1 46. Under § 1225(b)(2), “in the case of an alien who is an applicant for
2 admission, if the examining immigration officer determines that an alien seeking
3 admission is not clearly and beyond a doubt entitled to be admitted, the alien shall
4 be detained.” 8 U.S.C. § 1225(b)(2). By contrast, an alien arrested on a warrant
5 issued by the Attorney General “may” be detained but is also eligible for release on
6 bond. 8 U.S.C. § 1226(a). Courts have repeatedly held that § 1225 applies to
7 arriving aliens, while § 1226 governs detention of “aliens already in the country.”
8 *Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018). Petitioner is not an arriving alien
9 under § 1225 and in fact Respondents charged Petitioner as an “alien present in the
10 United States who has not been admitted or paroled” rather than an “arriving
11 alien.” See Exhibit E (stating Petitioner is charged under INA 212(a)(6)(a),
12 codified at 8 U.S.C. § 1226(a)(6)(a)).

13 47. The Courts to have addressed the issue have found the Government
14 invocation of the mandatory detention provision under section 1225 unlawful and
15 have ordered release of non-citizens held in detention based of such erroneous
16 reading of the Immigration and Nationality Act and application of § 1225(b) to
17 noncitizens who, like Petitioner, are not apprehended upon arrival in the United
18 States. *See Rodriguez Vasquez v. Bostock*, No. 3:25-CV-05240-TMC,---F.Supp.3d-
19 --, 2025 WL 1193850 (W.D.Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No.
20 1:25-CV- 11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025)
21 granting habeas based on same ground); *Diaz Alartinez v. Hyde*, No. CV 25-
22 11613-BEM,---F.Supp. 3d---2025 WL 2084238, at *9 (D. Mass. July 24, 2025)

1 (ordering release where noncitizen was redetained based on ICE's assertion of
2
3 detention authority under § 1225(b)).
4

5 **COUNT ONE**

6
7 **Detention in Violation of the Fifth Amendment**
8 **(substantive due process)**
9

10 **Against all Respondents**

11
12 48. Petitioner repeats and incorporates by reference all allegations in paragraphs
13
14 1 to 47 above.

15
16 49. The Fifth Amendment guarantees that no person shall be deprived of liberty
17
18 without due process of law. U.S. Const. Amend. V. “Freedom from
19
20 imprisonment—from government custody, detention, or other forms of physical
21
22 restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*,
23
24 533 U.S. 678, 690 (2001).

25
26 50. “Government detention violates the Due Process Clause unless it is ordered
27
28 in a criminal proceeding with adequate procedural safeguards, or in certain special
and non-punitive circumstances ‘where a special justification, . . . outweighs the
individual’s constitutionally protected interest in avoiding physical restraint.’”

Zavala v. Ridge, 310 F. Supp. 2d 1071, 1076 (N.D. Cal. 2004) (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).

51. Respondents cannot show any “special justification” or compelling
governmental interest which would outweigh Petitioner’s constitutional liberty.

52. Petitioner is neither a danger or flight risk or risk to the community.

1 53. The governmental interest in the continued detention of these least-
2 dangerous individuals does not and cannot outweigh the liberty interest at stake.
3
4

5 **COUNT TWO**

6
7 **Unreasonable Search and Seizure—Detention and Arrest in Violation of the**
8 **Fourth Amendment**
9 **Against all Respondents**
10

11
12 54. Petitioner repeats and re-alleges the allegations in paragraphs 1 through 47
13 above.
14

15
16 55. Except at the border and its functional equivalents, the Fourth Amendment
17 prohibits Respondents from conducting a detentive stop to question a person without
18 reasonable suspicion that a person is a noncitizen unlawfully in the United States.
19

20 *United States v. Sokolow*, 490 U. S. 1, 7 (1989).
21

22
23 56. “A person’s mere propinquity to others independently suspected of [unlawful]
24 activity does not, without more, give rise to probable cause to search [or seize] that
25 person.” *Perez Cruz v. Barr*, 926 F.3d 1128, 1138 (9th Cir. 2019) (quotation omitted).
26
27

28 “‘Reasonable suspicion’ is no different.” *Id.*

57. Respondents have a policy, pattern, and practice of stopping individuals without regard to reasonable suspicion that they are unlawfully in the United States. As a part of Respondents’ policy, pattern, and practice, when conducting stops, they engage in a show of force so overwhelming that a reasonable person would not feel free to leave. As a matter of policy, pattern, and practice, Respondents do not evaluate the need for force or tailor the force they use to the circumstances of individual stops and arrests.

1 58. In this case Respondents had no objectively reasonable or specifically articulable
2
3 factual basis to suspect that Petitioner was in the country illegally other his Latino
4
5 appearance. Respondents also had no objectively reasonable or specifically articulable
6
7 factual basis to suspect that Petitioner was involved in the commission of any crime,
8
9 nor did Respondents have any confirmation that Petitioner lacked immigration status,
10
11 had committed any crime, posed threat to anyone, nor did they observe Petitioner in
12
13 possession of any illegal objects, contraband, or weapons. Petitioner was in possession
14
15 of a lawfully issued drivers license/ID document.

16
17 59. Respondents restrained, detained, and interrogated Petitioner without reasonable
18
19 suspicion, arrested him without probable cause, and then used physical control and
20
21 excessive force to handcuff him as a means to intimidate and coerce Petitioner. The
22
23 scope and manner of Respondents' actions in detaining, arresting, and the subsequent
24
25 aggressive interrogations of Petitioner was unreasonable.

26
27 60. Respondents' conduct violated Petitioner's right to be secure in his person
28
against unreasonable searches and seizures as guaranteed under the Fourth Amendment
to the United States Constitution.

61. Petitioner seeks a declaration that Respondents violated his 4th Amendment
rights.

62. Respondent also seeks to set aside Respondents' policy of arresting non-citizens
without probable cause and without a warrant. Respondents also permit officers to
create post hoc administrative warrants and without issuing notices to appear, thereby
violating a clear and mandatory duty imposed by statute and regulations.

COUNT THREE
Detention in violation of 8 U.S.C. § 1226(a)
against All Respondents

63. Petitioners repeat and incorporate by reference all allegations in paragraphs 1 to 47 above.

64. The Attorney General has discretion to detain a non-criminal non-citizen “pending a decision on whether the alien is to be removed from the United States.” See 8 U.S.C. § 1226(a). The Attorney General may detain the non-citizen for the duration of the removal proceedings or release him on bond or conditional parole. See 8 U.S.C. § 1226(a)(1)-(2).

65. Respondents maintain that Petitioner is not eligible for bond and release as a matter of law because he are not subject to section 1226(a) but must be mandatorily detained under section 1225(b)(2). The position is a radical departure from decades-long practice and is entirely based on a recent “Guidance” subjecting uniformly all non-citizens like Petitioners to mandatory detention based on a new interpretation by Respondents of the provisions of the INA.

66. Under § 1225(b)(2), “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained.” 8 U.S.C. § 1225(b)(2). By contrast, an alien arrested on a warrant issued by the Attorney General “may” be detained but is also eligible for release on bond. 8 U.S.C § 1226(a). Courts have repeatedly held that § 1225 applies to

1 arriving aliens, while § 1226 governs detention of “aliens already in the country.”
2
3 *Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018). Petitioner here is not an arriving
4
5 alien under § 1225 but entered the United States decades ago and has resided in the
6
7 country ever since.

8
9 **COUNT FOUR**

10
11 **Violation of 8 U.S.C. § 1357(a)(2) Warrantless Arrests**
12 **Without Probable Cause of Flight Risk**
13 **against All Respondents**

14 67. Petitioners repeat and incorporate by reference all allegations in paragraphs 1 to
15
16 47 above.

17
18 68. 8 U.S.C. § 1357(a)(2) requires that arrests without a warrant be accompanied
19
20 by “reason to believe” that an individual is “likely to escape before a warrant can be
21
22 obtained for [their] arrest.”

23
24 69. Respondents arrested Petitioner without any warrant and without making an
25
26 individualized determination of flight risk. In fact, Respondents have no mechanism
27
28 for ensuring agents’ compliance with the statutory limits on warrantless arrest authority
and do not provide guidance or training to agents and officers on how to make an
individualized determination of likelihood of escape. Respondents permit agents and
officers to make warrantless arrests at whim and in violation of law.

COUNT FIVE

Violation of 8 C.F.R. § 287.8(c)(2)(ii)
against All Respondents

70. Petitioners repeat and incorporate by reference all allegations in paragraphs
1 to 47 above.

1 71. By regulation Respondents are required to conform warrantless arrests to the
2 standards in 8 C.F.R. § 287.8(c), including the requirement of 8 C.F.R. §
3 287.8(c)(2)(ii) that officers have reason to believe that an individual is “likely to
4
5 escape before a warrant can be obtained.”
6
7

8
9 72. Respondents arrested Petitioner without any warrant and without making an
10 individualized determination of flight risk.
11

12
13 73. In fact, Respondents have no mechanism for ensuring agents’ compliance with
14 the statutory limits on warrantless arrest authority and do not provide guidance to
15 agents and officers on how to make an individualized determination of likelihood of
16 escape. Respondents permit agents and officers to make warrantless arrests at whim
17 and in violation of law.
18
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21

22
23 **RULE 65 NOTICE AND IRREPARABLE HARM**
24

25 74. Pursuant to Federal Rule of Civil Procedure 65(b)(1) and Local Rules 7-19 and
26 65-1, immediately after filing this Petition, Petitioners’ Counsel will provide a copy of
27 the Petition and notice that Petitioner intends to seek *ex parte* application for Rule 65
28 relief. Petitioner counsel will file notice of proof of service when notice is completed.

75. Petitioner has resided in the United States for years and has established deep roots in the communities. See Exhibit B. Because of his unlawful arrests and detention Petitioner has been separated from family members and friends. He is experiencing severe emotional distress.

76. “It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990,

1 1002 (9th Cir. 2012). “When an alleged deprivation of a constitutional right is
2 involved, most courts hold that no further showing of irreparable injury is necessary.”
3
4 *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (cleaned up).
5
6 Suspicionless stops, warrantless arrests unsupported by probable cause, and punitive
7
8 and unlawful detention violate the Fourth and Fifth Amendments and constitute a
9
10 constitutional violation warranting injunctive (including preliminary injunctive) relief.
11
12 *See Int’l Molders’ & Allied Workers’ Loc. Union No. 164 v. Nelson*, 799 F.2d 547,
13
14 553 (9th Cir. 1986); *Melendres*, 695 F.3d at 1002 (irreparable harm exists where
15
16 plaintiffs face “a real possibility” that they will “again be stopped or detained and
17
18 subjected to unlawful detention”).
19
20
21
22
23

24 PRAYER FOR RELIEF

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

- 26 (1) Assume jurisdiction over this matter;
- 27 (2) Issue a Temporary Restraining Order releasing Petitioner or in the alternative
- 28 ordering Respondents to provide Petitioner with a bond hearing before an immigration judge within 5 days of the issuance of a court order;
- (3) Issue a Writ of Habeas Corpus on the ground that Petitioner’s continued detention violates the Due Process Clause and order Petitioner’s immediate release;

- 1 (4) In the alternative, issue injunctive relief ordering Respondents to
2 immediately release Petitioner, on the ground that his continued detention
3 violates Plaintiff's constitutional due process rights;
4
5 (5) Issue an injunction ordering Respondents not to arrest and detain Petitioner
6 without a proper finding that he has committed a violation of the conditions
7 of release;
8
9 (6) Issue an injunction ordering Respondents not revoke Petitioner's grant of
10 release and/or bond without providing prior written notice, an opportunity to
11 respond, and be represented by counsel prior to deprivation of liberty when
12 the individual is not yet subject to a final order of removal;
13
14 (7) Issue an injunction prohibiting the transfer of Petitioner outside of the
15 jurisdictional limits of this Court;
16
17 (8) Enter a judgment declaring that Respondents' detention of Petitioner
18 is and will be unauthorized by statute and contrary to law;
19
20 (9) Award Petitioner reasonable costs and attorney fees.
21
22
23
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26
27
28

Date: 12/13/2025

Verified and Submitted by

s/ Nicolette Glazer Esq.
Nicolette Glazer Esq.
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FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF - 19

ATTORNEY FOR PETITIONERS

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My name is Manuel Eliseo Gualan Japon and I am over 18 years old and the following is my declaration is truth and correct to the best of my knowledge

1. My name is Manuel Eliseo Gualan Japon
2. I am from Ecuador.
3. I am 46 years old.
4. I entered this country since 18 years ago.
5. On 11/2/2025, I was coming back from work and I was two blocks from my house. There was two people who I didn't know who they were and they approached me. They spoke English and I did not understand what was going on. They took me to the car.
6. I speak Spanish but the people who took me only spoke English with me. I believe I was being racial profiled by them because of my race and my language.
7. They arrested me and detained me for no reason. They handcuffed me when they took me to the car. They have been very rude to me. I was very helpless.
8. They took me to New Jersey detention center and then they took me to San Diego and I stay in Otay Mesa Detention Center.
9. I am very sick now at detention center. I have high cholesterol and I need treatment. I have so much fear inside and I worry so much about my life.
10. There are a lot of people together stayed in the same room.
11. They gave us food that is not eatable at all.
12. I am very depressed and I am under a lot of stress inside.
13. I could not sleep because of my medical condition. It is a nightmare to me about what happened on 11/2/2025. I came to this country to seek refugee because of the country condition in my country. I never expected to have those inhuman treatments like this. When I slept at night, I would have nightmare about what happened on 11/2/2025
14. I miss my family especially my parents.
15. I feel very helpless and vulnerable under this circumstance and I am so afraid of my life if I continue to stay inside.
16. I need to get out of there since my family needs me.
17. I miss my family and I need your help

Katherine Yajaira Sanchez Guevara for Manuel Eliseo Gualan Japon



Report

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Facility Page

Detention Information For:

MANUEL ELICEO GUALAN JAPON
Country of Birth: Ecuador
A-Number: 

Current Detention Facility:

OTAY MESA DETENTION CENTER
7488 CALZADA DE LA FUENTE
SAN DIEGO, CA 92154

Visitor Information: (619) 671-8724

MORE INFORMATION >



New York, November 11, 2025

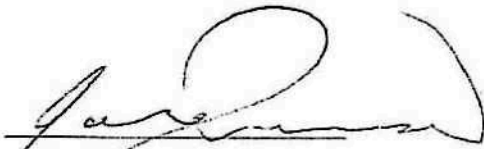
To Whom It May Concern:

I, José Romero, have the honor of recommending Manuel Eliceo Gualan Japón, a person known for his integrity, honesty, and strong sense of responsibility.

I have maintained a friendship and relationship of mutual respect with him for approximately ten years, during which he has consistently demonstrated coherence in his actions, respect for rules, and a genuine willingness to help others.

I consider Manuel not only a great friend but also an example of integrity and good conduct. I am fully willing to recommend him to others, as I know his behavior will always be trustworthy and admirable.

Sincerely,



José Romero



New York, November 11, 2025

To Whom It May Concern:

Through this letter, I, Fernanda Sánchez, wish to express my full support for Mr. Manuel Eliceo Gualan Japón, whom I have known for more than fifteen years, since we lived in Ecuador. Since then, we have maintained a sincere and lasting friendship.

Manuel has always been known as a hardworking, kind person with strong family values. Since his arrival in this country, I have had the opportunity to see him frequently and to confirm that he remains the same honest and respectful man I met years ago.

He is a dear friend to our family, someone who can be fully trusted. I have no doubt that Manuel is a person of integrity, responsibility, and excellent behavior. For these reasons, I strongly recommend Manuel Eliceo Gualan Japón, being fully confident in his good faith and his commitment to the community.

Respectfully,

Yaeli Sanchez

Fernanda Sánchez

New York, November 11, 2025

To Whom It May Concern:

I, Zoila Velazco, am pleased to recommend Manuel Eliceo Gualan Japón with complete confidence. I have known him for eight years, during which he has consistently demonstrated himself to be an ethical, responsible person with strong moral principles. His behavior reflects maturity, respect, and a sincere commitment to the community.

He is someone who fulfills his duties and acts with fairness and consideration toward others.

Sincerely,



Zoila Velazco

New York, November 11, 2025

To Whom It May Concern:

I am pleased to write this letter of recommendation on behalf of Mr. Manuel Eliceo Gualan Japón.

I, Katherine Sánchez, have known Manuel for more than fifteen years, since we lived in Ecuador, and during this time I have had the privilege of maintaining a close friendship with him and his family.

Throughout all these years, Manuel has proven to be an honest, responsible person with strong values. Since moving to the United States, I have remained in contact with him and have witnessed how he continues to be a hardworking, respectful man who is always willing to help others.

Manuel has been a great friend to our family—someone you can always trust. I consider him a person of integrity, with a kind heart and a strong dedication to his family and community.

For all these reasons, I sincerely recommend Manuel Eliceo Gualan Japón, as I am confident in his good character and moral conduct.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine Sánchez". The signature is stylized with loops and flourishes.

Katherine Sánchez

New York, November 11, 2025

To Whom It May Concern:

It is an honor for me to write this letter in support of Mr. Manuel Eliceo Gualan Japón.

I had the pleasure of meeting him more than fifteen years ago in Ecuador, and since then he has been a very close friend of my family. Over the years, our friendship has remained strong, even after he emigrated to the United States.

Manuel is a person of good principles, respectful, hardworking, and always willing to help. I have witnessed his dedication to his family and his determination to improve himself. Moreover, he continues to be someone who can be fully trusted and who demonstrates his kind heart every day.

Without a doubt, I wholeheartedly recommend Manuel Eliceo Gualan Japón, as I consider him an honorable, responsible person with exemplary conduct.

Sincerely,



Britney Sánchez



IDDPMI Segunda Rey de Gloria
Pastores Rev. Juan & Yosaira Caba
26-30 18th Street
Astoria, NY 11102

Nov 11- 2025

To Whom It May Concern,

The following is to inform you that Mr. Manuel Eliseo Gualan Japon, address at [REDACTED] st
2nd Floor Corona, NY 11368 attend our church, We hereby certify that the bearer has
recognized by the General Executive Body of Pentecostal Church of God

If you should need to contact me feel free to do so by calling 646-764-3565 / 718-777-0232.

Respectfully,

Rev. Juan Caba

Pastor

Juan Caba
IGLESIA SEGUNDA REY DE GLORIA, MI

26-30 18th Street
Astoria, NY 11102