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7 UNITED STATES DISTRICT COURT
8 Southern District of California
9

10 ANGEL FRANCISCO MONTEJO RAMIREZ,) Case Number: **'25CV3639 JES DEB**
11 Petitioner,) **VERIFIED PETITION FOR WRIT OF**
12 v.) **HABEAS CORPUS**
13 CHRISTOPHER J. LaROSE, Senior Warden)
14 Otay Mesa Detention Center; PAMELA BONDI,) Oral Argument Requested
15 United States Attorney General; KRISTI NOEM,)
16 Secretary of the Department of Homeland)
17 Security; PATRICK DIVVER, ICE San Diego)
18 Field Office Director; in their official capacities,)
19 Respondents.)

20 Petitioner alleges:

21 **INTRODUCTION**

22 1. Petitioner ANGEL FRANCISCO MONTEJO RAMIREZ (A ~~XXXXXXXXXX~~) is
23 subjected to unlawful detention by Respondents at the Otay Mesa Detention Center. Respondents
24 recently detained petitioner without any explanation. The immigration judges at Otay Mesa
25 conclude there is no jurisdiction to even consider setting a bond based *Matter of Yajure Hurtado*, 29
26 I & N Dec. 216 (BIA 2025). Petitioner seeks an order compelling respondents to immediately
27 release him from custody or for the immigration judge to accept jurisdiction and afford him a bond
28 decision on the merits.

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JURISDICTION

2. This action arises under the Constitution of the United States; the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq*; and the Administrative Procedures Act (“APA”), 5 U.S.C. § 500, *et seq*.

3. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus; 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (All Writs Act); 5 U.S.C. § 701 *et seq*. (APA); and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

4. The court may grant relief under the habeas corpus statutes, the Declaratory Judgment Act, and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

5. Venue is proper because Petitioner is detained at the Otay Mesa Detention Facility, in San Diego, California, which is within the jurisdiction of this District.

6. Venue is also proper in this judicial district pursuant to 28 USC §1391(e) because at least one federal respondent is in this District; and a substantial part of the events or omissions giving rise to the claims in this action took place in this District. No real property is involved.

REQUIREMENTS OF 28 U.S.C. § 2243

7. The Court must grant the habeas corpus petition 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*.

8. 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

9. Petitioner ANGEL FRANCISCO MONTEJO RAMIREZ (“Petitioner”) is a 51-year-old citizen of Guatemala. He is detained by the Respondents at the Otay Mesa Detention Center.

1 10. Respondent CHRISTOPHER J. LaROSE is sued in his official capacity as the Senior
2 Warden of the (Otay Mesa Detention Center). Defendant LaRose has custody of petitioner.

3 11. Respondent PAMELA BONDI is being sued in her official capacity as the Attorney
4 General of the United States. She is the official generally charged with supervisory authority over
5 all operations of the Department of Justice. In this capacity, she is responsible for the administration
6 of the immigration laws pursuant to 8 U.S.C. § 1103 and oversees the Executive Office for
7 Immigration Review (“EOIR”), a component of the DOJ, which includes the immigration courts
8 and the Board of Immigration Appeals (“BIA” or “Board”). She is empowered to oversee the
9 adjudication of removal and bond hearings and by regulation has delegated that power to the
10 nation’s Immigration Judges and the BIA.

11 12. Respondent KRISTI NOEM is being sued in her official capacity as the Secretary of
12 the United States Department of Homeland Security. She is the executive officer who has been
13 given authority to manage and control U.S. Immigration and Customs Enforcement (“ICE”). As
14 such, she is the ultimate legal custodian of petitioner.

15 13. Respondent PATRICK DIVVER is being sued in his official capacity as the Field
16 Office Director for the San Diego Field Office of Immigration and Customs Enforcement (ICE), a
17 component of DHS with responsibility over persons in immigration custody at the Otay Mesa
18 Detention Center. Director Divver has custody of petitioner.

19 **LEGAL FRAMEWORK**

20 14. This petition presents the legal question of whether an alien with long term residence
21 in the United States is subject to detention pursuant to 8 U.S.C. § 1226 or 8 U.S.C. § 1225.

22 15. As a threshold matter, the United States Supreme Court has re-affirmed that aliens
23 are entitled to due process of law in deportation proceedings and must be given notice and an
24 opportunity to be heard commensurate with the nature of the case. *Trump v. J. G. G.*, 604 U.S. ___,
25 145 S. Ct. 1003, 1006 (2025).

26 16. The “usual removal process” involves an evidentiary hearing before an immigration
27 judge. *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020). Proceedings are initiated
28 under 8 U.S.C. § 1229(a), also known as “full removal,” by filing a Notice to Appear with the

1 Immigration Court. *Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. 520, 520 (BIA 2011). Section § 1226
2 provides that while removal proceedings are pending, a noncitizen “may be arrested and detained” and
3 that the government “may release the alien on ... conditional parole.” § 1226(a)(2); *accord*
4 *Thuraissigiam*, 591 U.S. at 108 (during removal proceedings, applicant may either be “detained” or
5 “allowed to reside in this country”).

6 17. When a person is apprehended under § 1226(a), an ICE officer makes the initial
7 custody determination. *Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022) (citing 8 C.F.R. §
8 236.1(c)(8)). A noncitizen will be released if he or she “demonstrate[s] to the satisfaction of the
9 officer that such release would not pose a danger to property or persons, and that the alien is likely
10 to appear for any future proceeding.” *Id.* (citing 8 C.F.R. § 236.1(c)(8)). “Federal regulations
11 provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.”
12 *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (citing 8 CFR §§ 236.1(d)(1)). If, at this hearing,
13 the detainee demonstrates by the preponderance of the evidence that he or she is not “a threat to
14 national security, a danger to the community at large, likely to abscond, or otherwise a poor bail
15 risk,” the IJ will order his or her release. *Diaz*, 53 F.4th at 1197 (citing *Matter of Guerra*, 24 I. & N.
16 Dec. 37, 40 (B.I.A. 2006)).

17 18. Once released, the noncitizen’s bond is subject to revocation. Under 8 U.S.C. §
18 1226(b), “the DHS has authority to revoke a noncitizen’s bond or parole ‘at any time,’ even if that
19 individual has previously been released.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal.
20 2019). However, if an immigration judge has determined the noncitizen should be released, the
21 DHS may not re-arrest that noncitizen absent a change in circumstance. *See Panosyan v. Mayorkas*,
22 854 F. App’x 787, 788 (9th Cir. 2021) Where the release decision was made by a DHS officer, not
23 an immigration judge, the Government’s practice has been to require a showing of changed
24 circumstances before re-arrest. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal.
25 2017).

26 **FACTUAL ALLEGATIONS**

27 19. Petitioner is a 51-year-old citizen of Guatemala. He has lived in the United States
28 since March 2007. He entered the USA by unlawfully by crossing through the hills.

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

2 (1) Assume jurisdiction over this matter;

3 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition
4 should not be granted within three days;

5 (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth
6 Amendment, the INA, and the APA;

7 (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;

8 (5) Issue an order prohibiting respondents from re-detaining petitioner without a material
9 change in circumstances and a pre-deprivation hearing where respondents must prove by clear and
10 convincing evidence that petitioner is either a flight risk or danger to the community;

11 (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (28
12 U.S.C. § 2412), and any other applicable statute or regulation; and

13 (7) Grant any further relief this Court deems just and proper.

14 DATED: 17 December 2025

15 Respectfully submitted,

16 */s/ William Baker*

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18 _____
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VERIFICATION

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States that I am the petitioner; I have read the petition or had it read to me in a language I understand, and the information in the petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

VERIFICACIÓN

DECLARACIÓN BAJO PENA DE PERJURIO

Declaro bajo pena de perjurio según las leyes de los Estados Unidos que soy el peticionario; He leído la petición o me la han leído en un idioma que entiendo, y la información de la petición es verdadera y correcta. Entiendo que una declaración falsa de un hecho material puede servir como base para el enjuiciamiento por perjurio.

Angel M. Ramirez

ANGEL FRANCISCO MONTEJO RAMIREZ
Petitioner/Peticionario