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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Tomas Santos Campos,  
Petitioner,

Case No.: '26CV0029 BAS JLB

vs.

**PETITION FOR WRIT OF  
HABEAS CORPUS AND  
COMPLAINT FOR  
ADMINISTRATIVE PROCEDURE  
ACT RELIEF**

John Archambeault, San Diego Field  
Office Director, Enforcement and  
Removal Operations, United States  
Immigration and Customs Enforcement  
(ICE);

Christopher J. LaRose, Senior Warden,  
Otay Mesa Detention Center; Kristi  
Noem, Secretary, United States  
Department of Homeland Security;  
United States Department of Homeland  
Security;

Pamela Bondi, Attorney General of The  
United States; Executive Office for  
Immigration Review (EOIR);

Sirce Owen, Acting Director, EOIR;  
Otay Mesa Immigration Court,

Respondents.

1 **INTRODUCTION**

2 1. Petitioner, Tomas Santos Campos, by and through undersigned counsel,  
3 respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C.  
4 2241. Petitioner seeks immediate release from custody or, alternatively, a bond  
5 hearing before the immigration court. Petitioner has been subjected to prolonged  
6 detention at the Otay Mesa Detention Center in violation of his constitutional rights  
7 under the Due Process Clause of the Fifth Amendment and the principles  
8 established in *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491 (2001), and other  
9 relevant precedent.  
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13 **JURISDICTION AND VENUE**

14 2. This case arises under the Immigration and Nationality Act (INA), 8 U.S.C.  
15 §§ 1101–1538, and its implementing regulations; the Administrative Procedure  
16 Act (APA), 5 U.S.C. §§ 500–596, 701–706; and the U.S. Constitution.  
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19 3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas  
20 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United  
21 States Constitution (Suspension Clause).  
22

23 4. This Court may grant relief under the habeas corpus statutes, 28 U.S.C.  
24 § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the  
25 All Writs Act, 28 U.S.C. § 1651; Federal Rule of Civil Procedure 65; and the  
26 Court’s inherent equitable powers.  
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1 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e)  
2 because Respondents are U.S. agencies and officers of the United States acting in  
3 their official capacities or because they reside in this district. In addition, a  
4 substantial part of the events or omissions giving rise to the claims occurred in this  
5 District, Petitioner is detained in this District, and no real property is involved in  
6 this action.  
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10 **REQUIREMENTS OF 28 U.S.C. § 2243**

11 6. The Court must grant the petition for writ of habeas corpus or issue an order  
12 to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not  
13 entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court  
14 must require respondents to file a return “within *three days* unless for good cause  
15 additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).  
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18 7. Courts have long recognized the significance of the habeas statute in  
19 protecting individuals from unlawful detention. The Great Writ has been referred  
20 to as “perhaps the most important writ known to the constitutional law of England,  
21 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
22 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).  
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25 **PARTIES**

26 8. Petitioner, Tomas Santos Campos, is a 26-year-old native and citizen of  
27 Mexico who is currently detained at the Otay Mesa Detention Center in San Diego,  
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1 California.

2 9. Respondent John Archambeault is the Field Office Director for ICE  
3 Enforcement and Removal Operations (ERO) in San Diego, California. He is  
4 Petitioner's immediate custodian, responsible for his detention at Otay Mesa  
5 Detention Center (OMDC), and the person with the authority to authorize his  
6 detention or release. Respondent Archambeault is sued in his official capacity.  
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9 10. Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa  
10 Detention Center, oversees the day-to-day functioning of OMDC, and has  
11 immediate physical custody of Petitioner pursuant to a contract with ICE to detain  
12 noncitizens. Mr. LaRose is sued in his official capacity as the Warden of a federal  
13 detention facility.  
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16 11. Respondent Kristi Noem is the Secretary of the Department of Homeland  
17 Security. As Secretary, she oversees the federal agency responsible for  
18 implementing and enforcing the INA, including the detention of noncitizens. She  
19 is sued in her official capacity.  
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22 12. Respondent Department of Homeland Security (DHS) is the federal agency  
23 responsible for implementing and enforcing the INA, including the detention of  
24 noncitizens.  
25

26 13. Respondent Pamela Bondi is the Attorney General of the United States and  
27 head of the U.S. Department of Justice. In that capacity, she oversees EOIR and  
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1 the immigration court system the agency administers. She is ultimately responsible  
2 for the agency's operation. She is sued in her official capacity.  
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4 14. Respondent EOIR is a component agency of the Department of Justice  
5 responsible for conducting removal and bond hearings of noncitizens. EOIR is  
6 comprised of a lower adjudicatory body administered by IJs and an appellate body  
7 known as the Board of Immigration Appeals. IJs issue initial decisions in bond  
8 hearings, which are then subject to appeal to the BIA.  
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11 15. Respondent Sirce Owen is the Director of EOIR and has ultimate  
12 responsibility for overseeing the operation of the immigration courts and the Board  
13 of Immigration Appeals, including bond hearings. He is sued in her official  
14 capacity.  
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16 16. The Otay Mesa Immigration Court is the adjudicatory body within EOIR  
17 with jurisdiction over the removal and bond cases of all individuals detained at the  
18 OMDC.  
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### 20 STATEMENT OF FACTS

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22 17. Petitioner previous lived in the United States since he was 4 months old,  
23 had an approved DACA petition but departed the United States around July of 2024  
24 without proper travel authorization or advance parole due to incorrect information  
25 from his then counsel.  
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28 18. Petitioner entered the United States on December 19, 2024, at the San

1 Ysidro Port of Entry and was apprehended by immigration authorities on the same  
2 day.  
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4 19. Petitioner was placed in removal proceedings under Section 240 of the  
5 Immigration and Nationality Act (INA) and charged as inadmissible under Section  
6 212(a)(7)(A)(i)(I) of the INA for not possessing valid entry documents.  
7

8 20. Petitioner has been detained at the Otay Mesa Detention Center since  
9 December 20, 2024, and has remained in custody for over one year without a final  
10 order of removal or a bond hearing.  
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12 21. Petitioner has demonstrated a credible fear of persecution or torture if  
13 returned to Mexico, as determined by an asylum officer on January 13, 2025.  
14

15 22. Petitioner fears harm from cartel members who previously kidnapped him,  
16 threatened him with decapitation, and demanded ransom due to his familial  
17 relationship with a deceased brother who allegedly owed them money.  
18

19 23. Petitioner has no criminal history and poses no danger to the community or  
20 flight risk.  
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22 24. Petitioner has strong ties to the community including a United States citizen  
23 spouse, three stepchildren and a child. His child was born while he is in prolonged  
24 detention and he has not seen her yet.  
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26 **LEGAL FRAMEWORK**

27 **Prolonged Detention Violates Due Process**  
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1 25. Petitioner's detention has exceeded the presumptively reasonable six-month  
2 period established.  
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4 26. Under *Zadvydas*, detention beyond six months is permissible only if  
5 removal is reasonably foreseeable. Petitioner's removal is not reasonably  
6 foreseeable because he has a pending asylum claim and credible fear determination.  
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8 27. Prolonged detention without a bond hearing violates the Due Process Clause  
9 of the Fifth Amendment, as recognized in *Diouf v. Napolitano*, 634 F.3d 1081 (9th  
10 Cir. 2011), 634 F.3d 1081 (9th Cir. 2011).  
11

12 28. Petitioners' continued detention also violates the substantive limits the  
13 Supreme Court imposed in *Zadvydas v. Davis*, which held that 8 U.S.C. §  
14 1231(a)(6) contains an implicit temporal limitation on detention and does *not*  
15 authorize indefinite or prolonged confinement  
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18 29. A fundamental point supporting Petitioners' claim is that the Supreme Court  
19 in *Zadvydas v. Davis*, 533 U.S. 678 (2001), imposed a strict constitutional limit on  
20 detention under 8 U.S.C. § 1231(a)(6)—the post-final-order detention statute—  
21 holding that even individuals already ordered removed, and therefore in a more  
22 adverse legal position than § 1225(b) arriving aliens, may not be detained  
23 indefinitely. The Court interpreted § 1231(a)(6) to contain an implicit “reasonable  
24 time” limitation and ruled that detention beyond six months becomes  
25 unconstitutional unless the Government proves removal is significantly likely in the  
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1 reasonably foreseeable future. If due process forbids indefinite post-order detention  
2 of noncitizens who have already exhausted their rights and stand in the least  
3 favorable procedural posture, it follows a fortiori that arriving aliens detained under  
4 § 1225(b)—whose cases remain pending and who retain full statutory and  
5 constitutional protections—cannot be subjected to prolonged detention without  
6 meaningful review.  
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9 30. Petitioners' detention violates the statutory framework governing the  
10 treatment of arriving aliens, who are subject to detention under 8 U.S.C. § 1225(b)  
11 rather than § 1226. The Supreme Court in *Jennings v. Rodriguez*, 138 S. Ct. 830  
12 (2018), held that § 1225(b)(1) and § 1225(b)(2) mandate detention of arriving aliens  
13 during the pendency of their asylum or removal proceedings and do not provide a  
14 statutory right to periodic bond hearings. *Jennings*, however, held only that detained  
15 aliens are not statutorily entitled to periodic bond hearings. See *id.* *Jennings* did not  
16 determine the constitutional question at issue here—whether arriving aliens subject  
17 to prolonged detention under 8 U.S.C. § 1225(b) are entitled to a bond hearing as a  
18 matter of due process. *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 768 (S.D. Cal. 2020).  
19 Thus, although DHS relies on § 1225(b) as the statutory basis for Petitioners'  
20 detention, the Constitution still requires individualized procedures and meaningful  
21 review where confinement extends beyond a reasonable period and loses its  
22 immigration-regulatory justification. Although Petitioners are detained under 8  
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1 U.S.C. § 1225(b) pending the completion of immigration proceedings, the  
2 constitutional concerns identified in *Zadvydas*—that civil detention must be  
3 reasonably related to its purpose, must not be punitive, and cannot continue  
4 indefinitely—apply equally here. Although 'detention during deportation  
5 proceedings [is] a constitutionally valid aspect of the deportation process,' *Demore*  
6 *v. Kim*, 538 U.S. 510, 523, 123 S. Ct. 1708, 155 L. Ed. 2d 724 (2003), such detention  
7 must still comport with due process." (citations omitted)). Although the Ninth  
8 Circuit and Supreme Court have thus far been silent about non-citizens' entitlement  
9 to bond hearings after prolonged detention, "the majority of courts across the  
10 country . . . [have] conclud[ed] that an unreasonably prolonged detention under 8  
11 U.S.C. § 1225(b) without an individualized bond hearing violates due process."  
12 *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772-73 (S.D. Cal. 2020) (citing *Yagao v.*  
13 *Figueroa*, 2019 U.S. Dist. LEXIS 54566, 2019 WL 1429582, at \*2 (S.D. Cal. Mar.  
14 29, 2019) ("[T]he [c]ourt agrees with the many district courts finding that prolonged  
15 detention without a bond hearing likely violates due process.") See *Arechiga v.*  
16 *Archambeault*, No. 2:23-cv-00600-CDS-VCF, 2023 U.S. Dist. LEXIS 140947 (D.  
17 Nev. Aug. 11, 2023).

### **PRAYER FOR RELIEF**

18 WHEREFORE, Petitioner respectfully requests that this Court grant the  
19 following relief:  
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- 1) Assume jurisdiction and proper venue over this matter;
- 2) Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Respondents to immediately release Petitioner from immigration detention
- 3) In the alternative, order Petitioner's release unless Respondents provide him with a constitutionally adequate bond hearing before a neutral and impartial adjudicator within seven (7) days, where the burden is on DHS to justify continued detention by clear and convincing evidence that the Petitioner is either a flight risk or a danger to the community;
- 4) Enjoin Respondents from further detaining Petitioner for the remainder of the removal proceedings;
- 5) Award Petitioner reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- 6) Grant such other and further relief as this Court deems just and proper.

Date: January 4, 2026

Respectfully submitted,

/s/ Marcelo Gondim

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