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January 25, 2026

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

'26CV0463 AGS KSC

L.J.¹,

Petitioner,

v.

Christopher J. LAROSE, in his official capacity
as Warden of Otay Mesa Detention Center;
Daniel A. BRIGHTMAN, in his official capacity
as San Diego Field Office Director (FOD),
Immigration & Customs Enforcement (ICE)
Enforcement and Removal Operations (ERO);
Todd LYONS, in his official capacity as Acting
Director of ICE; and Kristi NOEM, in her official
capacity as Secretary of Homeland Security,
Pamela BONDI, U.S. Attorney General; ICE;
DEPARTMENT OF HOMELAND SECURITY,

Respondents.



**PETITION FOR WRIT
OF HABEAS CORPUS &
ORDER TO SHOW
CAUSE; COMPLAINT
FOR DECLARATORY
& EMERGENCY
RELIEF**

¹ Petitioner will move this Court for leave to proceed under a pseudonym (the initials L.J.).

Petitioner L.J., through undersigned Pro Bono Counsel here, petitions this Court for a writ of Habeas Corpus under 28 U.S.C. section 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

I. INTRODUCTION

1. Petitioner L.J. ("Petitioner" or "Mr. L.J.") is a Venezuelan asylum seeker detained at Otay Mesa Detention Center in San Diego, California. He was persecuted in Venezuela on account of his political opinion and activism against the Venezuelan government. [REDACTED]

[REDACTED] Despite fleeing to Colombia and Peru, L.J., his wife and two children, suffered extortion by Venezuelan gangs in those same countries. On their way to the U.S., the family was victimized in many countries, including a brutal sexual assault in the Darien jungle where L.J. was [REDACTED]

[REDACTED]

2. On or about August 16, 2024, L.J. entered the United States. Border agents briefly apprehended him and the family, determined he was not a flight risk or danger to the community, and released him and the family via humanitarian parole under INA §212(d)(5) for "urgent humanitarian reasons" or "significant public

² Exhibit C: Photo showing Petitioner in hospital after fire-bombing attack.

benefit,” since he did not present a “security risk nor a risk of absconding.”³ DHS released him with a Notice to Appear, pacing him in removal proceedings.⁴

3. L.J. and his family settled in Riverside County. He and his wife were granted Work Authorization by U.S. Citizenship and Immigration Services (USCIS) and they began working to support themselves.⁵ L.J. complied with the terms of his release and he remained law abiding.⁶ L.J. was under a DHS supervision program referred to as ISAP. L.J. complied with his weekly ICE check-ins whereby he was asked to send in a photo every Wednesday when the phone rang. He never missed a photo.

4. On April 2, 2025, almost 8 months after L.J. entered the U.S., ICE ordered him to appear for an in-person check-in and arrested him with an administrative warrant, not signed by a judge.⁷ He was not served with a new charging document.

5. The government has not justified why they arrested L.J. while the rest of the family was allowed to remain free, nor why he remains detained ten (10) months later. In the event that ICE alleges his tattoos are gang related, L.J.’s tattoos have been

³ Exhibit B: U.S. Customs & Border Protection (CBP) Form I-94, dated Aug. 17, 2024 (showing release and admission into the U.S.).

⁴ Exhibit A: Notice to Appear, DHS Form I-862, dated Aug. 17, 2024 (showing arrival to the U.S.).

⁵ Exhibit E: Employment Authorization Card; Employer Letter, Galilice Center, dated 8/6/25.

⁶ Exhibit F: FBI Rap Sheet showing no *criminal* notations, dated 5/19/2025; California Criminal History Information, Cal DOJ, showing no criminal history, dated 5/19/2025.

⁷ Exhibit D: Administrative Warrant, DHS, dated 04/02/2025.

reviewed by an expert witness who has drafted a report for this matter.⁸ Moreover, ICE has not raised any bars to relief in Immigration Court based on support for known terrorist groups or history of committing particular serious crimes.

6. L.J. has never missed an Immigration Court hearing.

7. L.J.'s arrest is part of a new, nationwide DHS strategy of sweeping up people in the field, detaining them, and seeking to re-route them to fast-track deportations. Since early 2025, DHS has implemented a coordinated practice of leveraging immigration detention to strip people like L.J. of their substantive and procedural rights and pressure them into deportation.⁹ Immigration detention is civil, and thus is permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. But DHS did not arrest and detain L.J.—who demonstrably poses no risk of absconding from immigration proceedings or danger to the community—for either of these reasons. This stands in contrast to any claim by the government that it respects *legal* immigration. Here, L.J. lawfully presented himself for asylum and has been in removal proceedings.

8. Despite apprehending L.J. without notice or due process, placing him

⁸ Exhibit G: Report by Professor Susan A. Phillips, Ph.D., Pitzer College, dated 8/20/25.

⁹ Steve Price, *Video shows ICE agents arresting immigrants at San Diego federal courthouse, raising due process concerns*, CBS8 LOCAL NEWS (June 11, 2025, 5:40 p.m. PDT), <https://www.cbs8.com/article/news/local/video-ice-agents-arrest-immigrants-at-san-diego-federal-courthouse-raises-due-process-concerns/509-49745585-774b-4144-81ff-3486c5fadbe9> (last visited January 8, 2026) (“The exact number of arrests is unclear, but footage shows agents detaining people immediately after court appearances.”).

at risk of being transferred away from the Southern District of California while he remains in Respondents' physical and legal custody. *See* 8 U.S.C. § 1225. Respondents do so based not on L.J.'s personal circumstances or individualized facts.

9. The Immigration Court found it had no jurisdiction to conduct a Custody Redetermination Hearing for L.J., and denied him released on bond.¹⁰

10. The Constitution protects L.J.—and every other person present in this country—from arbitrary deprivations of his liberty, and guarantees his due process of law. The government's power over immigration is broad, but as the Supreme Court has declared, it "is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

11. L.J. seeks declaratory and injunctive relief to compel his immediate release from the immigration detention where he has been held by DHS since being unlawfully detained on April 2, 2025, without first being provided a due process hearing to determine whether his incarceration is justified.

12. Merely compelling the Immigration Court to grant him a bond hearing would not be equitable here given that the minimum bond those courts can set is one

¹⁰ Exhibit I: Order of Immigration Judge Sameit, 9/26/25.

thousand five hundred dollars (\$1500). This would not put L.J. back in the position he found himself in before this deprivation of freedom because he would have to pay money for his release. This is especially burdensome given that his ability to earn income was disrupted by this arrest. Moreover, his wife has been unable to work because ICE also confiscated her Employment Authorization Document, leaving her to struggle as a single mother and caring for three children all alone, simply because of this unwarranted arrest.¹¹


13. Furthermore, a bond hearing before the Immigration Court would also be inadequate because of a new DHS policy where their attorneys appeal all bonds granted by Immigration Judges (IJ), even if set by virtue of Habeas Petitions. This results in continued detention by virtue of a stay of an IJ's order, thus undermining the granting of a Writ of Habeas Corpus grant.

14. L.J. therefore seeks a Writ of Habeas Corpus directing his immediate release.

15. In the alternative, L.J. seeks writ of Habeas Corpus directing a custody redetermination hearing in Immigration Court based on his prolonged detention.

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¹¹ Exhibit H: Photos of Petitioner's family; Birth Certificate of son, 

II. VENUE AND JURISDICTION

16. This Court has jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus), 28 U.S.C. § 1331 (federal question jurisdiction), and Article I, § 9, cl. 2 of the Constitution (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs Act), as L.J. is presently in custody under the authority of the United States and challenging his detention as in violation of the Constitution, laws, or treaties of the United States.

17. The federal district courts have jurisdiction under Section 2241 to hear Habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018); *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 787 (2001) (same); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at 3 (D. Or. July 9, 2025) (same); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at 7 (E.D. Cal. Aug. 21, 2025) (same).

18. Venue is proper because L.J. is detained in the Otay Mesa Detention Center, within the San Diego District, and Christopher J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center; and Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director (AFOD), as his immediate custodians. *See* 28 U.S.C. §§ 2241(d), 1391(e); *Rumsfeld v. Padilla*, 542 U.S. 426,

443 (2004) (Habeas Petition must be addressed to the federal district court of confinement). For these same reasons, venue should be found proper under Local Civil Rule HC.1.

III. PARTIES

19. Petitioner, L.J., is a 36-year-old Venezuelan father being held in San Diego, California. He is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

20. Respondent Christopher J. LAROSE is the Warden of Otay Mesa Detention Center. Respondent LAROSE is responsible for the operation of the Detention Center where L.J. is detained. As such, Respondent LAROSE has immediate physical custody of the Petitioner. He is being sued in his official capacity.

21. Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director, ICE-ERO. Respondent BRIGHTMAN is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent BRIGHTMAN is being sued in his official capacity.

22. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of L.J. and is being sued in his official

capacity.


23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

24. Respondent ICE is responsible for local custody decisions relating to non-citizens charged with being removable from the U.S., including the arrest, detention, custody status, and removal of non-citizens.

25. Respondent DHS is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

IV. EXHAUSTION OF REMEDIES

26. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

27. The DHS has determined no bond or parole is warranted here despite L.J. having been previously released on parole (own recognizance) by DHS¹², and despite his having been being detained for ten (10) months, with no end in sight. While in detention, L.J. missed the birth of his child, ¹³ He spent

¹² *See* Exhibit I.

¹³ *See* Exhibit H.

the Christmas holiday away from his family for no justifiable reason.

28. Therefore, L.J. has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

29. L.J. presented himself at the San Ysidro Port of Entry, alongside his wife and two children, on or about, August 16, 2024.¹⁴

30. DHS issued him a Notice to Appear (NTA), and classified him as an arriving alien.¹⁵

31. Shortly thereafter, DHS determined L.J. was not a flight risk or danger to the community, and released him and the family via humanitarian parole under INA §212(d)(5), a category commonly recognized for “urgent humanitarian reasons” or “significant public benefit,” presumably because he did not present a “security risk nor a risk of absconding.”¹⁶

32. L.J. and his family settled in Riverside County. He and his wife were granted Work Authorization by U.S. Citizenship and Immigration Services (USCIS) and they began working to support themselves.¹⁷ L.J. complied with the terms of his release and he remained law abiding.¹⁸ L.J. was under a DHS supervision program

¹⁴ See Exhibit A.

¹⁵ *Id.*

¹⁶ See Exhibit B.

¹⁷ See Exhibit E.

¹⁸ See Exhibit F.

referred to as ISAP. L.J. complied with his weekly check-ins with ICE whereby he was asked to send in a photo every Wednesday when the phone rang. He never missed a photo/check-in.

33. On April 2, 2025, almost 8 months after L.J. entered the U.S., ICE ordered him to appear for an in-person check-in and arrested him with an administrative warrant, not signed by a judge.¹⁹ He was not served with a new charging document.



34. DHS is detaining L.J. under INA 235(b) – People who are “applicants for entry” and who are “arriving” to the United States. Although the government classifies these kinds of entries as mandatory detention, DHS has the authority to release aliens arriving in this matter under Section 235(b) of the Immigration and Nationality Act (INA) through the discretionary parole authority granted under INA § 212(d)(5)(A). This provision allows the Secretary of the DHS to parole individuals into the United States on a case-by-case basis for “urgent humanitarian reasons” or “significant public benefit”. *Arias v. LaRose*, Southern District of California, November 25, 2025 (citing *Doe v. Noem*, 152 F.4th 272, 1st Cir. 2025). L.J. was released on this basis.


35. L.J. has no criminal record and no prior immigration violations.²⁰

¹⁹ See Exhibit D.

²⁰ See Exhibit F.

36. On Aug. 27, 2025, L.J. motioned the Immigration Court for a bond hearing. On Sept. 26, 2025, IJ Sameit found he lacked “jurisdiction pursuant to Section 235(b)(2)(A) of the INA.”²¹

37. L.J. appeared for his Individual Merit’s Hearing on Oct. 14, 2025. During direct examination L.J. testified about being  by the gang  at the age of eight. This testimony made L.J. break down emotionally. He struggled to breath, and despite a 10-minute break he continued to struggle. As a result, the IJ continued the hearing to another date, with all parties in agreement.

38. L.J. suffered  again, this time as an adult as he traveled to the U.S. through the Darian jungle. This is notable because while in DHS custody at Otay Mesa he has been targeted again, this time by a fellow detainee who repeatedly accused L.J. of being homosexual and demanding that L.J. perform sexual acts on this fellow detainee, while touching him inappropriately. On other occasions the detainee has shown his penis to L.J. This detainee bragged to L.J. about having grabbed the breasts of a trans woman in the unit.

39. L.J. complained to detention staff (Officer Barba) about this assault and harassment. Instead of removing the offender from this housing unit, staff transferred L.J. to a medical unit. His meals have been cut back, his access to communication with counsel has been reduced, and he was not allowed to shower in 5 days (as of

²¹ Exhibit I: Order of Immigration Judge Sameit, 9/26/25.

January 8, 2026). Now L.J. has been reclassified by detention staff as Protective Custody, and changed his uniform to yellow. They have placed L.J. in administrative segregation. L.J. believes he is being punished by this move. He fears this new designation makes him look weak and makes him a bigger target for other detainees looking to abuse people sexually. Detention staff has presented L.J. with documents written in English that he cannot read, demanding that he sign them without review by his attorney.

40. These events further exacerbate L.J.'s fragile mental health. He has been receiving medications for poor mental health for the majority of his time in custody.²²

41. On or about **January 15, 2026**, L.J. was hospitalized at UCSD. He was diagnosed with a hand injury as well as a hernia around his ribs. Due to limited communication with L.J., Counsel cannot state how these injuries occurred and the detention facility has not responded to Counsel's request for records of these events.

42. L.J.'s Individual Merit's Hearing was supposed to be held on **January 7, 2026**. However, the Immigration Court vacated the hearing due to the recent mental health trauma suffered at the detention center that has him taking powerful medications and causing him to suffer from a lack of sleep. The IJ found he was not competent to participate in his removal proceedings that day. The court reset the

²² Exhibit J: Medical Records, Core Civic – Otay Mesa Detention Center, filed with Immigration Court (filed 12/16/25).

matter to **February 8, 2026**.

43. This prolonged detention has also caused L.J.'s family severe distress. Without L.J., his wife has to raise three kids by herself, which includes a newborn baby. She cannot work to support the family given that she needs to be present to watch over the kids. In short, this is the kind of "urgent humanitarian reasons" or "significant public benefit" that caused DHS to release him upon entry into the U.S. in August 2024. *Arias v. LaRose*, Southern District of California, November 25, 2025 (citing *Doe v. Noem*, 152 F.4th 272, 1st Cir. 2025).

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

44. Habeas Corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

45. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). "[W]hen the judicial power to issue Habeas Corpus properly is invoked

the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner's release." *Id.* at 787.

VII. CAUSES OF ACTION

COUNT ONE (PROCEDURAL DUE PROCESS)

46. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

47. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001); *Trump v. J. G. C.*, 604 U.S. 670, 673 (2025)("The Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.").

48. Applying *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001), Petitioner's liberty interest is paramount; the risk of deprivation of L.J.'s interest is extreme considering the lack of a non-independent adjudicator here, the ten-month absence from his family, the mental suffering caused by the harassment he has suffered in detention, and the family's inability to work despite having work authorization given

that there is only one adult in the home and the children cannot be left unattended.

49. L.J. has a vital liberty interest in remaining free from DHS custody. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at 4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen that ICE released from custody after initial apprehension “has a substantial private interest in remaining out of custody” which includes an interest in “...obtaining necessary medical care, [and] maintaining her relationships in the community...”). While on release from DHS custody, L.J. was building his emotional support system that allowed him to deal with the emotional trauma he suffered in Venezuela any many other countries on his way to the U.S. that started on account of his political persecution. He was also able to support his family economically because he had a valid work permit.

50. While the government has discretion to detain individuals this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698. Moreover, 8 CFR §§241.4 and 241.13 address re-detention of longtime supervisees.

51. A noncitizen “who has been released under an order of supervision or other conditions of release” who then “violates the conditions of release may be returned to custody.” 8 C.F.R. § 241.4(l)(1) and 241.13 (h)(4)(i). Under this provision, “[u]pon revocation, the alien will be notified of the reasons for revocation

of his or her release," after which "[t]he alien will be afforded an initial informal interview promptly after his or her return to [ICE] custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." Here, Respondents never stated reasons for revoking Petitioner's release, and Petitioner was never given an opportunity to respond, in violation of 8 C.F.R. § 241.4(l)(1) 241.13 and 241.13 (h)(4)(i).

**COUNT TWO
(SUBSTANTIVE DUE PROCESS)**

52. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

53. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

54. The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." U.S. CONST. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

55. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

56. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of

physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

57. Given that government filings with the Immigration Court show L.J. has no criminal history, no prior immigration violations, no indications he will abscond, and he complied with all ICE check-ins,²³ the Government’s continued detention here serves no legitimate purpose. Thus, continued confinement bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary and capricious.

**COUNT THREE
(SUBSTANTIVE DUE PROCESS)**

**Violation of the Administrative Procedure Act (APA) – 5 U.S.C. § 706(2)(A)
Not in Accordance with Law and in Excess of Statutory Authority, Unlawful
Detention**

58. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

59. Under the APA, a court shall “hold unlawful and set aside agency action...” that is “...(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity...” 5 U.S.C. § 706(2)(A)-(B).

60. An action is an abuse of discretion if the agency “entirely failed to

²³ See Exhibits B and F.

consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007)(quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, U.S. 29, 43 (1983)).

61. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 588 U.S. 752, 773 (2019) (citation omitted). No such explanation exists here.

62. The INA provides that Respondents may, as they did in 2024 in Petitioner’s case, release an individual from apprehension or custody based on an individualized determination of their danger and flight risk. See 8 U.S.C. § 1226(a); *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). After such a release decision is made, a revocation of the custody determination may be made only when warranted by an individual’s specific facts and circumstances. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9). Again, no such facts or circumstances have been presented here by the DHS.

63. In *Y-Z-H-L v Bostock*, 2025 WL 1898025, at *10-12 (D. Or. July 9, 2025), the Court explained the process of discretionary release from custody in

immigration cases and noted that before revoking the release, the non-citizen must be given written notice of the impending revocation, which must include a cogent description of the reasons. Under the APA, non-citizens are entitled to determinations related to their release revocations that are not arbitrary, capricious or an abuse of discretion. See *Id.* at 10.

64. By categorically revoking L.J.'s release from DHS custody, and detaining him without notice or consideration of his individualized facts and circumstances, Respondents have violated the INA, and implementing regulations, and the APA.

65. Respondents have made no finding that Petitioner is a danger to the community.

66. Respondents have made no finding that Petitioner is a flight risk because, in fact, he was in compliance with all required check-ins and monitoring.

67. On information and belief, by detaining L.J. categorically and without notice, Respondents have further abused their discretion because, since the agency made its initial custody determination, on information and belief, there have been no changes to L.J.'s specific facts or circumstances that support the revocation of his release from custody on his own recognizance.

68. Respondents have already considered L.J.'s facts and circumstances and determined that he was not a flight risk or danger to the community. This is why

he was released on his own recognizance with his family in 2024. On information and belief, there have been no changes to the facts of L.J.'s proceedings that justify this revocation of his release from DHS custody. The fact that L.J. has previously been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider L.J., on an individualized basis, to be a danger to the community or a flight risk.

COUNT FOUR
Violation of the Fourth Amendment of the Constitution

69. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

70. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV. The Supreme Court has recognized that immigration arrests and detentions are “seizures” within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).

71. The Fourth Amendment requires that arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause

determination. *See id.* Arrest and detention of a person, including of a noncitizen, absent a neutral judicial determination of probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

72. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus provides immigration officers with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

73. L.J., at the moment of the arrest by Respondents, was lawfully present based on Respondents' prior grant of release from DHS custody.²⁴ He did not receive any judicial determination of probable cause for his arrest or continued detention by Respondents.

74. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment's reasonableness

²⁴ *See* Exhibit B.

inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114. L.J. was granted release from DHS custody in 2024 and did not pose any danger to any person in the community at large.

75. Respondents' warrantless arrest of L.J. constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of Habeas Corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision because merely compelling the Immigration Court to grant a bond hearing would not be equitable here given that the minimum bond courts can set is one thousand five hundred dollars (\$1500). This would not put L.J. back in the position he found himself in before this deprivation of freedom because he would have to pay money for his release. This would be an unreasonable burden given that L.J.'s ability to earn income was disrupted by this arrest.
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 business days of the filing of this petition;
- 5) Order discharge on admitted facts without a hearing pursuant to *Walker v. Johnston*, 312 U.S. 275, 284 (1941); *Tijerina v. Thornburgh*, 884 F.2d 861, 866 (5th Cir. 1989).
- 6) Alternatively, issue a writ of Habeas Corpus requiring Respondents to release Petitioner unless they provide a bond hearing with an Immigration Judge under 8 U.S.C. § 1226(a) within seven days;

- 7) Alternatively, issue a writ of Habeas Corpus requiring the Immigration Court find they have jurisdiction to hold a bond hearing;
- 8) Alternatively, issue a writ of Habeas Corpus requiring, as a matter of equity, the Immigration Court grant release without bond if it finds Petitioner is not a danger to the community or a flight risk;
- 9) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- 10) Grant any other and further relief which this Court deems just and proper.

Respectfully submitted January 25, 2026.

/s/Eduardo (Ed) Perez
Law Offices of Ed Perez
1079 Third Ave., Unit D
Chula Vista, CA 91911
CA Bar # 354544
Attorney for Petitioner in Pro Bono

TABLE OF CONTENTS
EXHIBITS IN SUPPORT OF WRIT OF HABEAS CORPUS

ITEM

Exhibit A:

Notice to Appear, DHS Form I-862, dated Aug. 17, 2024 (arrival to the U.S.)

Exhibit B:

CBP Form I-94, dated Aug. 17, 2024 (showing release and admission into the U.S.).

Exhibit C:

Photo showing Petitioner in hospital after fire-bombing attack.

Exhibit D:

Administrative Warrant, DHS, dated 04/02/2025

Exhibit E:

Employment Authorization Card; Employer Letter, Galilee Center, dated 8/6/25.

Exhibit F:

FBI Rap Sheet; California Criminal History Information, Cal DOJ, showing no criminal history, dated 5/19/2025.

Exhibit G:

Report by Professor Susan A. Phillips, Ph.D., Pitzer College, dated 8/20/25.

Exhibit H:

Photos of Petitioner's family; Birth Certificate of Son, Elias ALMAO-MUJICA.

Exhibit I:

Order of Immigration Judge Sameit, 9/26/25.

Exhibit J:

Medical Records, Core Civic – Otay Mesa Detention Center, filed with Immigration Court (filed 12/16/25).