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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ABDL MATINE SAMARI
Petitioner

v.

CASEY JEREMY, Warden, Imperial Regional
Adult Detention Facility, Calexico,
California in his official capacity, GREGORY
J. ARCHAMBEAULT, Field Office Director,
San Diego Field Office, U.S. Immigration and
Customs Enforcement, in his official capacity;
U.S. Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department
of Homeland Security, in her official capacity;
TODD M. LYONS, Acting Director of U.S.
Immigration and Customs Enforcement, in his
official capacity
PAMELA BONDI, U.S. Attorney General, in her
official capacity,

Respondents.

Case No. **'26CV701 AGS MSB**

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241**

WRIT OF HABEAS CORPUS - 1

INTRODUCTION

1. Petitioner Abdl Matine Samari is a political asylum seeker and a native and citizen of Togo who seeks immediate release from immigration detention because his current detention is unlawful. Detention imposed in violation of statutory and constitutional limits is punitive in effect in the civil immigration context and warrants judicial intervention to remedy the ongoing deprivation of liberty.
2. Petitioner is currently detained by the Department of Homeland Security (“DHS”) at the Imperial Regional Adult Detention Facility in Calexico, California. Petitioner entered the United States without inspection on or about December 1, 2023, at or near San Ysidro, California. Following his entry, Petitioner was encountered by U.S. Customs and Border Protection (“CBP”) officers, detained on December 1, 2023, and released on his own recognizance on December 3, 2023.
3. This petition challenges only the lawfulness and constitutionality of Petitioner’s present physical detention.
4. First, Petitioner’s detention is governed by Immigration and Nationality Act (“INA”) § 236, 8 U.S.C. § 1226, not INA § 235(b), 8 U.S.C. § 1225(b). DHS’s assertion that Petitioner is subject to mandatory detention is therefore incorrect.
5. Second, Petitioner’s continued detention violates the Due Process Clause of the Fifth Amendment for three independent but related reasons: (1) Substantive Due Process: the re-arrest and continued detention are arbitrary and unlawful in effect because Petitioner was previously released under INA § 236(a), complied with all conditions of release for an extended period, and was later re-detained as if detention were mandatory,

1 notwithstanding that the governing statutory framework provides only for discretionary
2 custody in his procedural posture; (2) Procedural Due Process: Petitioner was re-arrested
3 and detained through a summary deprivation of liberty, without adequate notice and
4 without a meaningful opportunity to be heard regarding the basis for renewed custody,
5 despite his compliance and appearance as required for his immigration proceedings; and
6 (3) Failure to Follow Governing Regulations: DHS failed to operate within the statutory
7 and regulatory framework it adopted to govern discretionary detention when it re-arrested
8 and detained Petitioner, and that failure independently violated due process by permitting
9 liberty to be withdrawn outside the procedures DHS established to regulate the exercise
10 of its detention authority.

11 6. Third, Petitioner's detention reflects unconstitutional executive overreach, in which bond
12 determinations are denied through categorical assertions of flight risk rather than
13 individualized analysis, depriving Petitioner of the process required by law.

14 7. Petitioner does not seek review of the merits of the underlying immigration charges or his
15 pending asylum application in this habeas proceeding.

16 8. Petitioner seeks immediate release from custody as the appropriate relief..

17 JURISDICTION

18 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in federal
19 custody and challenges the legality of his present physical detention as violating the
20 Constitution and laws of the United States.

21 10. Jurisdiction is also proper under 28 U.S.C. § 1331 and Article I, Section 9, Clause 2 of
22 the United States Constitution (the Suspension Clause), which preserve the availability of

habeas corpus to test the lawfulness of executive detention.

11. This Court has authority to grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651, as necessary to effectuate habeas relief.

12. Jurisdiction is proper notwithstanding 8 U.S.C. §§ 1252(b)(9) and 1252(g) because Petitioner does not seek review of removal proceedings, evidentiary rulings, or any final order of removal. He challenges only the statutory and constitutional authority for his present detention. In such circumstances, habeas jurisdiction remains available under § 2241. *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–80 (9th Cir. 2006).

13. Jurisdiction is proper because Petitioner is in custody within the Southern District of California and his immediate custodian is subject to the authority of this Court. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973).

VENUE

14. Venue is proper in this Court pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(e) because Petitioner is detained within the Southern District of California at the Imperial Regional Adult Detention Facility in Calexico, California, and Respondents exercise custody and control over Petitioner within this District.

15. Venue is independently proper under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), which holds that a habeas petition may be brought in the district where the petitioner is confined and where the custodian is subject to the court's jurisdiction.

16. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers or

1 agencies of the United States acting in their official capacities, and a substantial part of
 2 the events and omissions giving rise to Petitioner's detention-only claims occurred within
 3 this District, including Petitioner's arrest, detention, and continued confinement..

4 **REQUIREMENTS OF 28 U.S.C. § 2243**

5 17. The Court must grant the petition for a writ of habeas corpus or order Respondents to
 6 show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If
 7 an order to show cause is issued, Respondents must file a return "within three days unless
 8 for good cause additional time, not exceeding twenty days, is allowed." *Id.*

9 18. Habeas corpus is "perhaps the most important writ known to the constitutional law ...
 10 affording as it does a swift and imperative remedy in all cases of illegal restraint or
 11 confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). "The application for the writ
 12 usurps the attention and displaces the calendar of the judge or justice who entertains it
 13 and receives prompt action from him within the four corners of the application." *Yong v.*
 14 *I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

15 **PARTIES**

16 19. Petitioner Abdl Matine Samari is a native and citizen of Togo who is currently detained
 17 by the Department of Homeland Security.

18 20. Respondent Casey Jeremy is the Warden of the Imperial Regional Adult Detention
 19 Facility, located at 1572 Gateway Road, Calexico, California, and is sued in his official
 20 capacity. As Warden, Respondent Jeremy is the immediate physical custodian of
 21 Petitioner for purposes of habeas corpus. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35
 22 (2004).

1 21. Respondent Gregory J. Archambeault is the Immigration and Customs Enforcement Field
2 Office Director for the San Diego Field Office, which has responsibility over
3 immigration detention facilities in the Southern District of California, including the
4 Imperial Regional Adult Detention Facility in Calexico, California. As Field Office
5 Director, Respondent Archambeault is a legal custodian of Petitioner and is responsible
6 for Petitioner's detention pursuant to the Immigration and Nationality Act. He is sued in
7 his official capacity.

8 22. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs
9 Enforcement. As the head of ICE, he is responsible for policies and decisions governing
10 the detention of noncitizens, including Petitioner. He is a legal custodian of Petitioner
11 and is sued in his official capacity.

12 23. Respondent Kristi Noem is the Secretary of the United States Department of Homeland
13 Security. The Department of Homeland Security is the federal agency charged with the
14 administration and enforcement of the Immigration and Nationality Act. See 8 U.S.C. §
15 1103(a); 8 C.F.R. § 2.1. As Secretary of DHS, Respondent Noem has ultimate authority
16 over immigration enforcement and custodial decisions, including Petitioner's detention.
17 She is sued in her official capacity.

18 24. Respondent Pam Bondi is the Attorney General of the United States. She is responsible
19 for the administration and enforcement of the Immigration and Nationality Act. See 8
20 U.S.C. §§ 1103(a)(1), 1103(g). The Attorney General oversees the Executive Office for
21 Immigration Review, which administers removal proceedings and adjudicates
22 applications for relief, including Petitioner's pending immigration case. She is sued in

1 her official capacity.

2 25. Each Respondent is sued solely in his or her official capacity. At all relevant times,
3 Respondents have acted or failed to act under color of federal law in maintaining
4 Petitioner's detention.

5 **FACTUAL AND PROCEDURAL BACKGROUND**

6 26. Petitioner Abdl Matine Samari is a native and citizen of Togo. He fled Togo after being
7 targeted by the government because of his political activities and opposition to the ruling
8 regime.

9 27. Petitioner was an active participant in the Pan-African National Party ("PNP"), a political
10 movement opposing the longstanding rule of the Gnassingbé family and advocating for
11 the restoration of the 1992 Constitution. In connection with these activities, Petitioner
12 participated in a large nationwide demonstration organized by the PNP.

13 28. During the demonstration, Petitioner stood at the front line holding a sign stating, "Togo
14 is not the property of the Gnassingbé family, return to the 1992 Constitution." The
15 Togolese military dispersed participants using tear gas and gunfire. Soldiers beat
16 demonstrators, and Petitioner was chased and beaten by military personnel before he
17 escaped.

18 29. After the demonstration, government forces and armed militias arrested, beat, and
19 imprisoned many participants. Authorities used photographs taken without participants'
20 knowledge to identify individuals involved in the protest. Fearing arrest, imprisonment,
21 or death, Petitioner fled Togo.

22 30. Petitioner entered the United States without inspection on or about December 1, 2023, at

1 or near San Ysidro, California. (Notice to Appear.)

2 31. After his entry, Petitioner was encountered by U.S. Customs and Border Protection
3 officers, who detained him on December 1, 2023.

4 32. DHS charged Petitioner and placed him into removal proceedings pursuant to
5 Immigration and Nationality Act (“INA”) § 240, 8 U.S.C. § 1229a. DHS charged
6 Petitioner as inadmissible under INA § 212(a)(6)(A)(i). In accordance with INA § 236(a),
7 8 U.S.C. § 1226(a), and the applicable provisions of Title 8 of the Code of Federal
8 Regulations, DHS released Petitioner on his own recognizance on December 3, 2023,
9 pending completion of his removal proceedings, with the requirement that he appear for
10 scheduled immigration court hearings.

11 33. Following his release, Petitioner resided in the community and complied with the
12 conditions of his release by appearing as required for immigration court hearings and
13 remaining available to immigration authorities.

14 34. On April 11, 2024, Petitioner filed an application for asylum, withholding of removal,
15 and protection under the Convention Against Torture on Form I-589 with the
16 immigration court. The asylum application was supplemented on October 2, 2025 and
17 remains pending before the Executive Office for Immigration Review (“EOIR”).

18 35. Based on his pending asylum application, DHS issued Petitioner employment
19 authorization, permitting him to work lawfully in the United States. Petitioner thereafter
20 worked as a security officer while residing in the community.

21 36. On October 2, 2025, Petitioner appeared for his scheduled immigration court hearing. At
22 that hearing, DHS officers arrested Petitioner at the courthouse and took him into

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1 immigration custody.

2 37. Following his arrest, Petitioner was initially detained at a detention facility in New Jersey
3 and was subsequently transferred to the Imperial Regional Adult Detention Facility in
4 Calexico, California.

5 38. Petitioner has remained continuously detained since October 2, 2025..

6 **EXHAUSTION OF REMEDIES**

7 39. No statutory requirement of administrative exhaustion applies to Petitioner's habeas
8 corpus petition challenging the lawfulness and constitutionality of his present civil
9 immigration detention. A noncitizen in federal custody may seek immediate relief under
10 28 U.S.C. § 2241 where detention allegedly exceeds statutory authority or violates the
11 Constitution. *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018).

12 40. Although courts may in limited circumstances impose a prudential exhaustion
13 requirement, exhaustion is not required where administrative remedies are unavailable,
14 inadequate, or futile, or where the agency lacks authority to grant the relief sought.
15 *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992).

16 41. Petitioner does not seek review of removal proceedings, evidentiary rulings, or any final
17 order of removal. He challenges only the statutory and constitutional authority for his
18 present detention.

19 42. Immigration Judges and the Board of Immigration Appeals lack jurisdiction to adjudicate
20 constitutional challenges to immigration detention statutes or to order release where DHS
21 asserts that detention is governed by INA § 235 or otherwise denies bond eligibility. In
22 such circumstances, administrative exhaustion would be futile.

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1 43. Where, as here, the government asserts detention authority that does not provide for
2 release on bond, there is no administrative mechanism through which Petitioner could
3 obtain the relief sought in this habeas petition. Requiring exhaustion under these
4 circumstances would serve no purpose other than to delay judicial review of allegedly
5 unlawful confinement. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001).

6 44. Habeas corpus exists to provide prompt judicial review of executive detention, and courts
7 have cautioned against imposing exhaustion requirements that would undermine that
8 purpose. The Supreme Court has described habeas corpus as affording a “swift and
9 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S.
10 391, 400 (1963).

11 45. The Ninth Circuit has similarly emphasized that detention habeas petitions warrant
12 expedited review given the ongoing deprivation of physical liberty. *Yong v. I.N.S.*, 208
13 F.3d 1116, 1120 (9th Cir. 2000).

14 46. Because Petitioner challenges only the legality of his present detention, raises
15 constitutional and statutory claims beyond the competence of immigration courts, and
16 lacks any adequate administrative remedy through which to obtain relief, administrative
17 exhaustion is neither required nor appropriate, and this Court may properly adjudicate
18 Petitioner’s claims under 28 U.S.C. § 2241.

19 LEGAL FRAMEWORK

20 COUNT I

21 Petitioner’s Detention Is Governed by INA § 1226(a)

22 47. Petitioner seeks immediate release from immigration custody because his current

1 detention is governed by Immigration and Nationality Act (“INA”) § 236(a), 8 U.S.C. §
2 1226(a), which does not mandatory detention.

3 48. Federal courts may review the legality of executive detention through habeas corpus, *INS*
4 *v. St. Cyr*, 533 U.S. 289, 301 (2001), and may order release where detention lacks
5 statutory authorization. *Nadarajah v. Gonzales*, 443 F.3d 1069, 1086 (9th Cir. 2006).

6 49. Under the applicable statute, INA § 236(a), codified at 8 U.S.C. § 1226(a), provides that
7 “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained
8 pending a decision on whether the alien is to be removed from the United States,” and,
9 except as provided in subsection (c), the statute authorizes the Attorney General to either
10 continue to detain the noncitizen or to release the noncitizen on bond in an amount of at
11 least \$1,500 or on conditional parole. 8 U.S.C. § 1226(a)(1)–(2). Mandatory detention
12 applies only under subsection (c).

13 50. First, 8 U.S.C. § 1226 governs the arrest and detention of noncitizens who are already
14 present in the United States and placed in removal proceedings under 8 U.S.C. § 1229a.
15 Detention under § 1226(a) is discretionary and expressly authorizes release on bond or
16 conditional parole following an individualized custody determination. 8 U.S.C. §
17 1226(a); 8 C.F.R. §§ 1003.19(a), 1236.1(d). Mandatory detention under § 1226(c) applies
18 only to a narrowly defined category of noncitizens with specified criminal convictions.

19 51. Second, 8 U.S.C. § 1225 governs inspection and initial detention of individuals seeking
20 admission at the Nation’s borders and ports of entry. Section 1225(b)(1) addresses
21 expedited removal and credible-fear processing for certain arriving individuals, while §
22 1225(b)(2) governs detention of certain applicants for admission pending

1 inspection-related proceedings. The text, structure, and placement of § 1225 reflect
2 Congress's focus on border and inspection-based encounters, not interior arrests.

3 52. Third, 8 U.S.C. § 1231 governs detention following the entry of a final order of removal.
4 Respondents do not invoke § 1231 here, and the record does not support its application.

5 53. Here, Petitioner entered the United States without inspection on December 1, 2023. He
6 was encountered by Border Patrol and briefly detained for processing, which typically
7 includes background and national security checks before any release decision is made.
8 Following that processing, DHS exercised its discretion to release Petitioner on his own
9 recognizance on December 3, 2023, pursuant to INA § 236(a).

10 54. Following his release, Petitioner applied for asylum, he was issued a work authorization
11 based on the pending asylum, he worked lawfully as a security officer and complied with
12 all conditions of release.

13 55. Nevertheless, on October 2, 2025, while in compliance with those conditions, Petitioner
14 was re-arrested by ICE in the interior of the United States at the courthouse as he
15 appeared for his pending immigration proceedings. Petitioner's current detention
16 therefore arises from an interior arrest following his release after two years of liberty, not
17 arriving noncitizen under INA § 1225.

18 56. Respondents assert that Petitioner is detained under INA § 235(b), 8 U.S.C. § 1225(b),
19 and continue to rely on the theory that noncitizens similarly situated to Petitioner are
20 subject to mandatory detention because they are charged as applicants for admission.
21 Section 1225 governs inspection and removal of inadmissible arriving noncitizens and
22 mandates detention only during that limited, inspection-stage process; it does not

1 authorize mandatory detention outside the inspection and expedited-removal context. By
2 contrast, INA § 236(a) governs detention after inspection and authorizes only
3 discretionary custody. As district courts have explained, and as *Maldonado Bautista v.*
4 *Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025),
5 has already held, DHS’s attempt to extend § 1225(b) beyond its statutory scope has been
6 foreclosed. That decision, and its reasoning, are discussed in greater detail below.

7 57. Here, DHS charged Petitioner under INA § 212(a)(6)(A)(i), but did not apprehend him at
8 the border as he was arriving, subject him to inspection, or place him in expedited
9 removal proceedings at the time of his re-arrest. Instead, Respondents rely on the
10 manner-of-entry allegation in the Notice to Appear to justify treating Petitioner as subject
11 to border-based mandatory detention, notwithstanding his interior arrest and placement in
12 ordinary removal proceedings.

13 58. Critically, mandatory detention under § 1225(b) does not govern Petitioner’s
14 re-detention. Petitioner was not an “arriving” noncitizen at the time of his re-arrest, and
15 therefore § 1225(b)(1)(A)(i) does not apply. Petitioner has been physically present in the
16 United States for more than two years, and thus § 1225(b)(1)(A)(iii) likewise does not
17 apply.

18 59. Furthermore, DHS’s own implementing regulations confirm this interpretation. The
19 regulation implementing § 1225(b)(2) applies to “any arriving alien who appears to the
20 inspecting officer to be inadmissible.” 8 C.F.R. § 235.3 (emphasis added). “Arriving
21 alien” is defined as an applicant for admission “coming or attempting to come into the
22 United States at a port-of-entry.” 8 C.F.R. § 1.2. That definition does not describe

Petitioner. DHS's attempt to apply § 1225(b)(2)(A) to Petitioner's interior re-detention is therefore inconsistent with both the statute and its implementing regulations.

60. Courts have recognized that DHS's current effort to apply 8 U.S.C. § 1225(b) to individuals arrested in the interior represents a departure from the agency's prior understanding of the statutory scheme. In *Bethancourt Soto v. Soto*, No. 1:25-cv-16200, Document 10 (D.N.J. 2025), the court noted Respondents' concession that immigration authorities "did not always interpret § 1225(b) that way," and that, until recently, DHS "read § 1225(b) to apply only to those who have arrived in the United States." The court further observed Respondents' admission that DHS's predecessor agency detained arriving noncitizens under § 1225(b), while noncitizens present without admission were detained under the discretionary framework of 8 U.S.C. § 1226(a). Courts in multiple jurisdictions have reached the same conclusion in materially similar detention postures involving release into the interior followed by re-detention. In *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12, 2025), the court held that § 1226, not § 1225(b)(2), governed detention of a noncitizen released into the interior and later re-detained, rejecting the government's attempt to "switch tracks" post hoc to justify mandatory detention. Likewise, in *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025), and *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025), courts concluded that detention of individuals released or paroled into the United States and later re-detained after residing openly in the community was governed by § 1226 rather than § 1225.

1 61. Independent authority further forecloses Respondents' reliance on § 1225 as a blanket
2 interior detention tool. Whether INA § 1226 or INA § 1225 governs Petitioner's
3 detention is not an open question. That issue was squarely addressed and resolved in
4 *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861
5 (C.D. Cal. Nov. 20, 2025). There, the court held that § 1226 provides the default
6 detention authority for individuals detained pending a removal decision, while § 1225 has
7 a limited temporal scope restricted to inspection and expedited removal of arriving
8 noncitizens. *Id.* The court emphasized that the statutory text draws a meaningful
9 distinction between the two provisions: detention under § 1226 is discretionary, while
10 detention under § 1225 is mandatory, and the provisions are harmonious because they
11 apply to different circumstances. *Id.* (citing *Fifty-Six Hope Rd. Music, Ltd. v. A.V.E.L.A.,*
12 *Inc.*, 778 F.3d 1059, 1081 (9th Cir. 2015)). Relying on that text, the court further held
13 that the discretionary bond framework in § 1226(a) applies to noncitizens "*present in the*
14 *United States without being admitted or paroled*" under 8 U.S.C. § 1182(a)(6)(A) who
15 are not subject to § 1226(c). *Maldonado Bautista*, 2025 WL 3289861, at *16–17 (citing
16 *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *17 (W.D.
17 Wash. Sept. 30, 2025)).

18 62. The court concluded that the statutory language is unambiguous and the detention
19 scheme coherent and consistent, granted partial summary judgment, and declared
20 Respondents' interpretation contrary to law. *Id.* (citing *United States v. Ron Pair Enters.,*
21 *Inc.*, 489 U.S. 235, 240 (1989)). On December 18, 2025, the court entered a final order
22 vacating DHS's interim guidance adopting the contrary interpretation.

63. The same reasoning applies here. Petitioner's charging document alleges that he has not been admitted or paroled, and his re-arrest occurred in the interior of the United States during pending removal proceedings. Under *Maldonado Bautista*, detention in these circumstances is governed by INA § 1226(a), not INA § 1225(b).

64. To the extent Respondents rely on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), that reliance does not alter the statutory analysis. As *Maldonado Bautista* held, the statutory text of INA §§ 1225 and 1226 is unambiguous, and Article III courts are therefore not required to follow the agency's interpretation. The court further held that *Yajure Hurtado* is not controlling authority. Consistent with *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts must exercise independent judgment in assessing whether an agency's reasoning is persuasive and may not defer to agency interpretations of law where Congress has spoken clearly. Applying that standard, at least one district court has expressly held that *Yajure Hurtado* "is not entitled to *Skidmore* [*v. Swift & Co.*, 323 U.S. 135 (1944)] deference." *Afgan*, 2025 WL 3713732, at *2. Where statutory text is clear, agency adjudications are not binding on courts adjudicating habeas petitions.

65. Likewise, in *Olga Sosa Inzunza v. Warden of Adelanto Detention Facility, et al.*, No. 5:26-cv-00078-SSS-BFM (C.D. Cal. Jan. 27, 2026), the district court addressed continued litigation following entry of final judgment in *Maldonado Bautista v. Santacruz*. The court explained that, despite that final judgment rejecting DHS's interpretation of INA § 1225, Respondents continued to rely on the same legal theory in subsequent detention cases. The court further held that the continued filing of habeas petitions was attributable not to petitioners, but to Respondents' repeated reliance on

1 statutory interpretations already held unlawful, and therefore concluded that Respondents
2 are estopped from relitigating the statutory detention issue resolved in *Maldonado*
3 *Bautista*.

4 66. Here, Respondents advance the same statutory detention theory that was rejected in
5 *Maldonado Bautista* and later reaffirmed and enforced through estoppel in *Olga Sosa*
6 *Inzunza v. Warden of Adelanto Detention Facility*. Because Respondents continue to rely
7 on an interpretation of INA § 1225 that courts have held unlawful, noncontrolling, and
8 barred from relitigation, their assertion of mandatory detention lacks any statutory basis.
9 To this extent, where these rationales apply to Petitioner, detention under INA § 1225 is
10 foreclosed, and Petitioner's detention is governed by INA § 1226.

11 67. Petitioner respectfully requests that the Court grant the writ of habeas corpus and order
12 his immediate release from immigration custody. At his initial arrest in 2023, DHS
13 exercised its discretion to release Petitioner on his own recognizance pursuant to INA §
14 1226(a), a determination that reflected DHS's assessment, following standard processing,
15 that Petitioner did not present a flight risk or a danger to the community and that
16 continued detention was therefore not required. Since that release, DHS has identified no
17 violation of release conditions, no changed circumstances, and no new allegations that
18 would alter that assessment. Therefore, a bond hearing would not address anything new.
19 However, if the Court declines to order immediate release, Petitioner respectfully
20 requests a prompt, individualized custody or bond determination under INA § 1226(a). If
21 such a hearing is not provided within seven (7) days of the Court's order.

COUNT II

Violation of the Fifth Amendment Due Process Clause

68. . Petitioner seeks immediate release from custody because DHS violated the Fifth Amendment's Due Process Clause at the inception of his re-arrest by detaining Petitioner after DHS had already exercised discretion to release him into the community and allowed him to remain at liberty while his immigration case proceeded. First, DHS violated substantive due process by re-detaining Petitioner in a manner that is no longer reasonably related to a legitimate immigration purpose and instead functions as punitive detention. Second, DHS violated procedural due process by withdrawing Petitioner's government-authorized liberty without notice and without a meaningful opportunity to be heard. Third, DHS violated governing custody statutes under the INA's discretionary detention framework, including INA § 236(a), 8 U.S.C. § 1226(a), compounding the due process violations and rendering the detention unlawful from its inception..

69. Federal district courts have authority to grant a writ of habeas corpus where a person "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(a), (c).

70. The Fifth Amendment's Due Process Clause applies to all persons within the United States, including noncitizens in civil immigration custody. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Because immigration detention is civil rather than criminal, it is constitutionally permissible only so long as it remains nonpunitive and reasonably related to a legitimate governmental purpose, and only if it is imposed through constitutionally adequate procedures. *Id.* at 690; *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

1 71. Freedom from physical restraint lies at the core of the liberty protected by the Due
2 Process Clause. *Zadvydas*, 533 U.S. at 690. Civil detention violates the Fifth Amendment
3 unless it occurs pursuant to a criminal proceeding with full procedural protections,
4 *United States v. Salerno*, 481 U.S. 739, 746 (1987), or under narrow, nonpunitive
5 circumstances supported by a distinct justification outweighing the individual's liberty
6 interest, *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

7 72. Those narrow circumstances generally involve tightly regulated civil commitment
8 regimes supported by specific findings and heightened safeguards. *Kansas v. Hendricks*,
9 521 U.S. 346, 356 (1997). Outside those confined contexts, civil detention that inflicts
10 serious harm without advancing its regulatory purpose violates substantive due process.

11 1. Substantive Due Process

12 73. Petitioner seeks immediate release because, under the Fifth Amendment's Due Process
13 Clause, his continued detention is no longer reasonably related to a legitimate
14 immigration purpose and has instead become arbitrary and punitive in effect.

15 74. The Fifth Amendment prohibits civil detention that is excessive in relation to its
16 regulatory purpose or imposed without justification. *Zadvydas v. Davis*, 533 U.S. 678,
17 690–91 (2001); *Wong Wing v. United States*, 163 U.S. 228, 237 (1896). Because
18 immigration detention is civil rather than criminal, it is constitutionally permissible only
19 so long as it remains nonpunitive and reasonably related to a legitimate governmental
20 objective. *Zadvydas*, 533 U.S. at 690.

21 75. Here, DHS exercised its discretion under INA § 236(a) to release Petitioner on his own
22 recognizance while removal proceedings were pending. That release was not incidental

1 or fleeting. It was an affirmative grant of liberty by the government.

2 76. When the government permits an individual to live in the community subject to
3 conditions, that conditional liberty “includes many of the core values of unqualified
4 liberty,” and its termination “inflicts a grievous loss.” *Morrissey v. Brewer*, 408 U.S. 471,
5 482 (1972). As a result, the grant of supervised liberty carries an implied promise: so
6 long as the individual complies with the conditions imposed, liberty will not be
7 withdrawn arbitrarily.

8 77. Here, Petitioner relied on that government-authorized liberty. He appeared for scheduled
9 immigration court hearings, remained available to immigration authorities, complied with
10 all conditions of release, and lawfully worked pursuant to DHS-issued employment
11 authorization. Nothing in the record suggests noncompliance, danger, or flight risk.

12 78. Despite Petitioner’s compliance, DHS summarily re-arrested him at a scheduled
13 immigration court appearance and took him into custody without notice. DHS did not
14 allege that Petitioner violated any condition of release. DHS did not identify any changed
15 factual circumstances. DHS did not assert that Petitioner posed a danger or had attempted
16 to abscond.

17 79. Where the government withdraws previously authorized liberty without identifying a
18 violation or material change in circumstances, detention ceases to be regulatory. It
19 becomes arbitrary. *Zadvydas*, 533 U.S. at 690; *Foucha v. Louisiana*, 504 U.S. 71, 80
20 (1992).

21 80. Civil detention imposed in this manner is not reasonably related to ensuring appearance
22 or effectuating removal. It instead operates as punishment for continued presence or for

exercising the right to pursue lawful relief, which the Constitution forbids. *Wong Wing*, 163 U.S. at 237.

81. Nothing about Petitioner's re-detention advances a legitimate civil objective. DHS previously determined that community supervision was sufficient to manage any risk. That assessment did not change. Re-detention therefore does not serve removal, public safety, or appearance interests.

82. When detention "no longer serves its purported regulatory purpose," it violates substantive due process. Courts in California have granted habeas relief on materially similar facts, where DHS re-detained individuals after periods of successful community supervision without demonstrating that renewed detention was reasonably related to a legitimate regulatory purpose. See, e.g., *Carballo v. Andrews*, 2025 WL 2381464, at *8 (E.D. Cal. Aug. 15, 2025).

83. Finally, DHS is not detaining Petitioner pursuant to any civil commitment statute and has not made findings of dangerousness supported by the heightened safeguards the Constitution requires. See *United States v. Salerno*, 481 U.S. 739, 746 (1987); *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)

84. Instead, DHS relies solely on general immigration detention authority to justify confinement, even though detention itself is the government's chosen response to facts that previously warranted release. Under the Fifth Amendment, civil detention imposed in this posture is unconstitutional. *Zadvydas*, 533 U.S. at 690.

85. Because DHS withdrew previously authorized liberty without changed circumstances and because continued detention no longer bears a reasonable relationship to any legitimate

1 immigration purpose, Petitioner's detention violates substantive due process. That
2 violation renders detention unlawful from its inception and requires immediate release.

3 2. Procedural Due Process

4 86. Separately and independently, Petitioner seeks immediate release because DHS violated
5 procedural due process under the Fifth Amendment when it withdrew previously
6 authorized liberty without notice and without a meaningful opportunity to be heard.

7 87. The Fifth Amendment prohibits the government from depriving any person of liberty
8 without due process of law. U.S. Const. amend. V. Once a noncitizen is physically
9 present in the United States, these protections apply regardless of immigration status.
10 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

11 88. At its core, procedural due process requires **notice and an opportunity to be heard** at a
12 meaningful time and in a meaningful manner before physical liberty is withdrawn.
13 *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). These requirements apply with particular
14 force where the government affirmatively grants liberty and later seeks to revoke it.
15 *Morrissey v. Brewer*, 408 U.S. 471, 481–82 (1972).

16 89. When the government confers conditional liberty, that liberty “is valuable and must be
17 seen as within the protection of the Due Process Clause,” and its termination “inflicts a
18 grievous loss” that cannot occur through summary action alone. *Id.* at 482.

19 90. The Mathews framework applies to immigration re-detention because the Ninth Circuit
20 has recognized that procedural due process claims in the immigration detention context
21 are analyzed using the *Mathews* framework. *Rodriguez Diaz v. Garland*, 53 F.4th 1189,
22 1206–07 (9th Cir. 2022).

1 91. Under *Mathews*, courts evaluate: (1) the private interest affected, (2) the risk of erroneous
2 deprivation under the procedures used and the value of additional safeguards, and (3) the
3 government's interest and the burdens of additional procedures. *Mathews*, 424 U.S. at
4 334–35.

5 92. Application of these factors here strongly favors Petitioner.

6 A. The Private Interest Affected

7 93. Petitioner's private interest in remaining free from physical confinement is substantial.
8 As the Supreme Court has repeatedly recognized, freedom from physical restraint lies at
9 the core of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S.
10 678, 690 (2001); *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

11 94. In this case, that liberty interest is especially strong because DHS affirmatively released
12 Petitioner into the community after initially detaining him in 2023. Following standard
13 processing, including background and security checks, DHS exercised its discretion
14 under INA § 236(a) to release Petitioner on his own recognizance rather than continue
15 detention or seek a bond determination.

16 95. As a result, that grant of liberty reflected DHS's assessment at the time that continued
17 detention was not required to address flight risk or danger to the community. Custody
18 determinations under § 1226 turn on those same considerations. See *Singh v. Holder*, 638
19 F.3d 1196, 1203–04 (9th Cir. 2011).

20 96. Moreover, that grant of liberty carried an implied promise that Petitioner would not be
21 re-detained absent a violation of release conditions or a material change in circumstances
22 bearing on custody. Petitioner relied on that promise. He appeared for all required

proceedings, remained available to DHS, and complied with every condition imposed on his release. DHS has not identified any violation of release conditions or any new facts that would alter the basis for the original release decision.

97. Finally, under *Morrissey v. Brewer*, where the government encourages reliance on compliance rather than evasion, the individual's liberty interest is at its apex. 408 U.S. 471, 482 (1972). The private interest at stake here therefore weighs heavily in Petitioner's favor.

B. Risk of Erroneous Deprivation and Value of Additional Safeguards

98. The risk of erroneous deprivation in this case was substantial.

99. DHS re-detained Petitioner without advance notice, without a written explanation, and without any opportunity to be heard before liberty was withdrawn. DHS did not assert that Petitioner violated any condition of release. DHS did not identify changed circumstances. DHS did not conduct any individualized custody assessment before imposing detention.

100. Re-detention occurred summarily, at a scheduled immigration court appearance, while Petitioner was complying with all requirements. That sequence presents a significant risk of error because liberty is withdrawn before any determination that detention is justified.

101. Courts have repeatedly recognized that re-detention following prolonged, compliant release without notice or process creates a substantial risk of erroneous deprivation. See *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322–23 (W.D. Wash. 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

102. The value of additional safeguards here is obvious and substantial. Even minimal

1 procedures—notice of the basis for re-detention and a prompt, individualized custody
2 determination—would have required DHS to articulate why detention was suddenly
3 necessary after having authorized liberty. Those safeguards would materially reduce the
4 risk of arbitrary deprivation.

5 C. The Government's Interest

6 103. The government's interests include ensuring appearance at proceedings and protecting
7 the community. *Zadvydas*, 533 U.S. at 690. Those interests are not meaningfully
8 advanced by summary re-detention on these facts.

9 104. DHS previously determined that Petitioner could be safely managed in the community
10 and relied on that assessment for an extended period. Petitioner appeared as required and
11 complied with supervision. There was no imminent removal at the time of re-detention
12 and no allegation of flight risk or danger.

13 105. Requiring notice and an individualized custody determination imposes a minimal
14 administrative burden. Custody hearings are routine, and Ninth Circuit precedent already
15 requires individualized findings and allocation of the burden of proof in discretionary
16 detention cases. *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).

17 106. Balancing the Mathews factors confirms that due process was violated because
18 Petitioner's liberty interest is substantial. The risk of erroneous deprivation was high
19 because DHS withdrew conditional liberty through summary action without notice or
20 hearing. The government's interests could have been fully protected through minimal
21 procedures requiring individualized justification.

22 107. Where, as here, DHS revokes previously authorized liberty without notice and without a

1 meaningful opportunity to be heard, procedural due process is not satisfied.

2 108. Because DHS revoked Petitioner's liberty without constitutionally adequate procedures,
3 detention is unlawful from its inception. Procedural due process violations of this kind
4 cannot be cured by post hoc justification or delayed process. *Morrissey*, 408 U.S. at 488.

5 109. Immediate release is therefore the appropriate remedy to halt the ongoing constitutional
6 violation

7 3.Failure to Follow Governing Custody Framework in Violation of Due Process

8 110. Independently, Petitioner seeks relief because Respondents' re-detention of Petitioner
9 violated due process by because it was carried out without adherence to the governing
10 statutory custody framework. When an agency promulgates regulations governing the
11 exercise of its discretionary authority, particularly where individual liberty is at stake, due
12 process requires the agency to follow those regulations. *United States ex rel. Accardi v.*
13 *Shaughnessy*, 347 U.S. 260, 268 (1954). Agency action taken in disregard of binding
14 custody regulations cannot support continued detention. See *Montilla v. INS*, 926 F.2d
15 162, 169 (2d Cir. 1991).

16 111. INA § 236(a), 8 U.S.C. § 1226(a), establishes a discretionary custody regime during the
17 pendency of removal proceedings, under which DHS may either detain a noncitizen or
18 release the noncitizen on bond or conditional parole. Unless Congress has expressly
19 mandated detention, detention under § 236(a) remains discretionary. Petitioner is not
20 subject to mandatory detention under § 236(c), and Respondents do not contend
21 otherwise.

22 112. DHS exercised its discretion under § 236(a) when it released Petitioner on his own

1 recognizance on December 3, 2023. That decision placed Petitioner squarely within the
2 discretionary custody framework Congress prescribed. While DHS retained authority to
3 arrest and detain Petitioner during pending proceedings, any subsequent deprivation of
4 liberty remained governed by the same discretionary statutory regime.

5 113. On October 2, 2025, DHS re-arrested Petitioner in the interior of the United States while
6 his removal proceedings were ongoing. At that point, the governing detention statute did
7 not change. DHS's authority, if any, continued to arise under § 236(a). Because § 236(a)
8 authorizes discretionary detention, DHS could not lawfully treat Petitioner's re-detention
9 as mandatory or automatic.

10 114. Section 236(a) does not permit DHS to withdraw liberty while disclaiming the
11 discretionary framework Congress imposed. Nor does it authorize DHS to convert
12 discretionary custody into mandatory detention by recharacterizing the statutory basis for
13 detention. Where detention is exercised under § 236(a), access to release remains part of
14 the statutory scheme.

15 115. Here, DHS re-detained Petitioner while removal proceedings remained pending and
16 without invoking any statutory provision mandating detention. By treating detention as
17 effectively mandatory notwithstanding § 236(a), DHS acted outside the statutory
18 framework governing Petitioner's custody and increased the risk of arbitrary
19 confinement.

20 116. Because Petitioner's re-detention occurred during pending removal proceedings and
21 outside the scope of any mandatory-detention statute, his continued detention is governed
22 exclusively by INA § 236(a). Respondents therefore lack statutory authority to deny

Petitioner access to release or to impose detention as a matter of course.

117. Taken together, Petitioner's continued detention violates due process at its inception. Petitioner respectfully requests that the Court grant the writ of habeas corpus and order his immediate release from immigration custody because DHS had already determined that he was not a flight risk or a danger to the community when he was initially detained, which is the same assessment a bond hearing is intended to address. However, if the Court declines to order immediate release, Petitioner respectfully requests a prompt, individualized custody or bond determination consistent with INA § 236(a).

COUNT III

Violation of Article III and Separation of Powers Through Executive Defiance of Judicial

Authority

118. Petitioner seeks immediate release from custody because the Executive Branch has exceeded its constitutional authority and encroached upon the exclusive role of Article III courts. Where the executive branch detains a person while openly disregarding binding federal court decisions and insulating detention decisions from meaningful judicial enforcement, continued confinement violates the Constitution's separation of powers and renders executive adjudication constitutionally inadequate.

119. Article III of the United States Constitution vests the judicial power of the United States exclusively in the federal courts. U.S. Const. art. III, § 1. That authority includes the power to interpret the law and to ensure that executive detention complies with constitutional limits. Habeas corpus serves as a core structural safeguard against executive overreach by permitting courts to test the legality of detention and to order

1 release where constitutional violations persist. *Boumediene v. Bush*, 553 U.S. 723, 765
2 (2008).

3 120. Federal courts have repeatedly condemned executive branch detention practices that
4 operate in defiance of Article III authority. In *Maldonado Bautista v. Ernesto Santacruz*,
5 No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), the district court restored bond
6 eligibility after holding that the government's interpretation of detention authority was
7 unlawful. Despite entry of a final judgment, immigration adjudicators acting under
8 executive control declined to follow the court's nationwide ruling.

9 121. That executive defiance was addressed directly in *Inzunza v. Warden of Adelanto*
10 *Detention Facility et al.*, No. 5:26-cv-00078-SSS-BFM (C.D. Cal. Jan. 27, 2026), where
11 the court found that Respondents had "deliberate[ly]" continued to rely on legal
12 interpretations that had already been held unlawful. The court observed that "[d]espite
13 the final judgment in *Maldonado Bautista*, it appears that immigration judges continue to
14 rely on legal interpretations that were expressly found unlawful," and collaterally
15 estopped **Respondents from relitigating the issue.**

16 122. Similarly, the United States District Court for the Western District of Texas granted
17 habeas relief based on executive detention conducted in disregard of constitutional limits.
18 In *Conejo Arias v. Noem*, No. SA-26-CV-415-FB (W.D. Tex. Jan. 31, 2026), Judge Fred
19 Biery ordered immediate release, holding that "the Constitution of these United States
20 trumps this administration's detention" and emphasizing that "[a]dministrative warrants
21 issued by the executive branch to itself do not pass probable cause muster." The court
22 further underscored that "[t]he Constitution requires an independent judicial office

1 123. Here, this Court can resolve Petitioner's motion either by ordering his immediate release
2 or by directing Respondent to provide him with a bond hearing before an immigration
3 judge. However, Petitioner submits that immediate release is the appropriate remedy to
4 safeguard against constitutional overreach by the executive branch and to preserve his
5 constitutional rights to due process.

6 124. Immigration judges are not part of the judicial branch. Rather, they are administrative
7 employees of the Executive Office of Immigration Review ("EOIR"), an agency within
8 the Department of Justice ("DOJ"), which operates under the executive branch. Exh. 5.
9 Although EOIR states that its mission is to adjudicate immigration cases "fairly,
10 expeditiously, and uniformly,"¹ this objective has been undercut by the current
11 administration's hard-line immigration agenda, which includes a militarization of the
12 immigration court system, mass arrest and detention of immigrants, and encroachment on
13 federal judicial authority.

14 125. On June 27, 2005, the acting director of EOIR issued a nationwide memorandum to all
15 immigration judges accusing certain judges of bias against the administration, advising
16 those judges to consider another career, and threatening to terminate their employment.
17 Exh. 11. Following this memorandum, the Trump administration engaged in a mass
18 firing of judges who did not align with its mass deportation goals. Exhs. 6, 11.

19 126. Since 2025, the Trump administration has fired over 100 immigration judges without
20 cause and replaced them with temporary military lawyers. Exhs. 6, 7, 8, 11. "Most of the
21

22 ¹ <https://www.justice.gov/eoir/about-office>

1 judges fired either had higher rates of granting asylum, were former immigration defense
2 attorneys, or had dual citizenship.” Exh. 11. In doing so, the administration essentially
3 purged EOIR of immigration judges who did not align with or would not be willing to
4 advance the current administration’s policy objectives. Exhs. 6, 7, 8, 11. As a result, the
5 administration stripped EOIR of its status as a neutral arbitrator and reconstructed it as a
6 tool to advance anti-immigration policies.

7 127. Contemporaneous with the firings, the federal government published a solicitation for
8 “*deportation* judges” calling on “any attorneys,” including those with “*no immigration*
9 *experience*” to apply as temporary immigration judges. Exh. 6, 9. As of September
10 2025, the Department of Defense (“DOD”) has approved sending up to 600 military
11 lawyers to serve as temporary immigration judges. Hiring military lawyers to act as
12 temporary immigration judges advances the perception that the purpose of these new
13 judges is to deport rather than to weigh each case on its merits. Exh. 8. This move
14 further signals this administration’s goal to use the immigration courts as a tool to
15 advance its anti-immigration policies.

16 128. What has resulted is an abuse of executive power in which EOIR has blatantly
17 circumvented the federal judiciary by ignoring court decisions. Exh. 5. This is clearly
18 demonstrated by the administration’s decision to arrest and subject millions of
19 immigrants, like Petitioner, to mandatory detention. Specifically, on July 8, 2025, ICE
20 issued an internal memorandum, deviating from long-standing precedent, calling for the
21
22

1 arrest and mandatory detention of millions of undocumented immigrants.² Exh. 4. The
2 BIA, which also falls under the purvey of the executive branch, codified mandatory
3 detention through its subsequent issuance of *Matter of Q.Li* and *Matter of Yure Hurtado*.

4 129. On December 18, 2025, the United States District Court for the Central District of
5 California, in *Maldonado Bautista*, entered a final judgment restoring bond eligibility for
6 the aforementioned individuals. Despite this, EOIR, again acting under the direction of
7 the executive branch, decided that it was not bound by the federal court's ruling.

8 130. Specifically, on January 13, 2025, Chief Immigration Judge Teresa L. Riley issued a
9 nationwide guidance instructing all immigration judges not to follow *Maldonado*
10 *Bautista* stating it was not binding on the immigration courts. Exh. 4(a). **The failure by**
11 **the executive branch to recognize the validity of a decision by an Article III Court**
12 **amounts to constitutional overreach and encroaches on the judiciary's authority to**
13 **interpret the law.** Exh. 5.

14 131. On January 27, 2026, the United States District Central District Court of California
15 entered an order in *Inzuna v. Warden of Adelanto Detention Facility et al.*, 5:26-cv-
16 00078-SSS-BFM, in which it denounced the immigration judges' open defiance of
17 judicial orders. The Court recognized that Respondents have "deliberate[ly]" continued

19 ² The Court in *Bautista* vacated DHS' July 8, 2025 policy entitled "Interim Guidance
20 Regarding Detention Authority for Applicants for Admission," under the Administrative
21 Procedure Act as not in accordance with law. However, DHS continues to engage in mass arrest
22 and detention of immigrants in violation of *Bautista*.

1 to defy *Maldonado Bautista* and stated that “[d]espite the final judgement in *Bautista*,
2 it appears that immigration judges continue to rely on legal interpretations that
3 were expressly found unlawful.” Accordingly, the Court entered an order collaterally
4 estopping Respondents from relitigating whether Bond Eligible Class members are
5 entitled to relief.

6 132. EOIR’s open defiance to the judiciary has extended beyond its refusal to comply with
7 *Maldonado Bautista*. Specifically, the Agency continues to advance the current
8 administration’s anti-immigration agenda by denying bonds even after federal district
9 courts grant habeas petitions and order bond hearings. Although bond hearings are being
10 conducted, those hearings have amounted to nothing more than a pretense to comply with
11 a judicial order while simultaneously advancing this administration’s agenda of
12 continued detention.

13 133. On a nationwide level, private attorneys have documented a complete disregard for the
14 law. Immigration judges frequently and erroneously place the burden of proof on
15 petitioners to establish that they are not a flight risk or danger to the community.

16 134. More problematic is the systematic denial of bonds by immigration judges based on an
17 baseless finding of “flight risk.” Exhs. 1, 2, 3, 3a. As reflected in the attached exhibits,
18 bond orders often state that the noncitizen has failed to establish that s/he is not a flight
19 risk without providing any reasoning or analysis. In most cases, the flight risk finding is
20 unsupported by the record as the detainees seeking bond had previously been released
21 from ICE custody on an order of supervision and complied with the terms of their
22 release, including appearing at all immigration court hearings and ICE check-ins. Most

1 in fact, were arrested while appearing for court or during an ICE check-in. Exh. 7.

2 135. This nationwide pattern of bond denials following habeas relief, based solely on meritless
3 findings of flight risk, suggests the existence of internal guidance directing immigration
4 judges to continue circumventing federal court orders, in the same manner in which they
5 were explicitly instructed to disregard the district court's decision in *Maldonado*
6 *Bautista*, in order to continue to detain immigrants. In the words of a recently terminated
7 immigration judge, EOIR is "blatantly violating federal judicial orders." Exh. 11.

8 136. Even assuming that certain factors exist that may affect an individual's flight risk, a
9 determination that *no bond* could address those concerns is unreasonable. Immigration
10 judges have wide discretion to impose conditions of release, including higher bond
11 amounts or alternatives to detention such as electronic monitoring yet have elected not to
12 do. Rather, they have constructively continued to subject immigrants to mandatory
13 detention.

14 137. In Petitioner's specific case, the record reflects that he previously appeared ICE check-ins
15 and complied fully with the terms of supervised release. Petitioner is affirmatively
16 seeking asylum in the United States and would not abscond and abandon the sole
17 mechanism by which he may lawfully remain in this country. Given that EOIR appears to
18 be acting under the direction of the current administration, its role as a neutral arbitrator
19 is questionable. This, together with the specific facts of Petitioner's case, warrants an
20 order for his immediate release

21 **CONCLUSION**

22 138. Respondents lack statutory authority to detain Petitioner under INA § 235(b). Petitioner

1 was released in December 2023 and remained at liberty for more than two years before
2 being re-arrested in the interior while removal proceedings were pending. His detention is
3 therefore governed, if at all, by INA § 236(a), not INA § 235(b), and Respondents'
4 decision to detain him under § 235(b) exceeds the detention authority Congress has
5 provided.

6 139. Independently, Petitioner's re-arrest violated due process at its inception. When
7 Petitioner was initially detained in 2023, DHS conducted standard processing and
8 determined that continued detention was not necessary to address flight risk or danger to
9 the community, and DHS released Petitioner under INA § 236(a). Petitioner complied
10 with all conditions of release and appeared as required throughout his proceedings. The
11 later re-detention withdrew that government-authorized liberty without a meaningful
12 process and without any new facts bearing on custody. A due process violation occurs at
13 the moment liberty is taken without adequate process and cannot be cured by proceedings
14 offered after the fact.

15 140. In light of these statutory and due process violations, immediate release is an appropriate
16 remedy. Further custody proceedings would not address the defects that arose at the time
17 of re-arrest. Where detention is imposed without statutory authority or in violation of due
18 process, courts sitting in habeas have the authority to order interim relief to protect
19 constitutional limits on executive detention.

20 141. Accordingly, Petitioner respectfully requests that the Court grant the writ and order his
21 release from immigration custody to remedy the ongoing deprivation of liberty.

22 **PRAYER FOR RELIEF**

23 WRIT OF HABEAS CORPUS - 35

1 142. WHEREFORE, Petitioner respectfully requests that this Court:

2 143. Grant the Petition for a Writ of Habeas Corpus;

3 144. Declare that Petitioner's current detention is not authorized under INA § 235(b) and that
4 Petitioner's custodial posture is governed, if at all, by INA § 236(a);

5 145. Order Petitioner's release from immigration custody as an appropriate remedy for
6 detention imposed without statutory authority and in violation of the Fifth Amendment
7 and applicable governing framework;

8 146. In the alternative, should the Court decline to order immediate release, order a prompt
9 and individualized custody determination, to occur within a reasonable period not to
10 exceed seven (7) days, consistent with INA § 236(a) and the Due Process Clause, at
11 which: (a) the government bears the burden of justifying continued detention; (b) the
12 adjudicator considers release on recognizance, bond, or other appropriate conditions; and
13 (c) any conditions of release are tailored to Petitioner's individual circumstances and
14 demonstrated compliance history;

15 147. Grant appropriate injunctive relief sufficient to ensure that any future arrest or detention
16 of Petitioner complies with applicable statutory and constitutional requirements
17 governing civil immigration detention;

18 148. Award reasonable attorneys' fees and costs, to the extent permitted by law; and

19 149. Grant such other and further relief as the Court deems just and proper.

20 Dated: February 4, 2026

Respectfully Submitted,

21
22 /s/ Theodora E. Adoghe

23 WRIT OF HABEAS CORPUS - 36

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VERIFICATION

WRIT OF HABEAS CORPUS - 37

1 Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under the penalty of perjury
2 that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

3 Executed this February 4th day of January 2026.

4 /s/ *Theodora E. Adoghe*

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