

Richard S. Sterger, Esq. (SBN 335832)
Sterger Law Group, P.C.
300 W. Grand Ave., Suite 200
Escondido, CA 92025
(760) 546-2111
rick@stergerlawgroup.com

Attorney for Petitioner
ENRIQUE ABRAHAM TAPIA-MEDINA

UNITED STATE DISTRICT COURT
SOUTHER DISTRICT OF CALIFORNIA

ENRIQUE ABRAHAM TAPIA-MEDINA,

Plaintiff,

v.

CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center;
DANIEL A. BRIGHTMAN, San Diego
Field Office Director, Immigration and
Customs Enforcement and Removal
Operations ("ICE/ERO"); TODD M.
LYONS, Acting Director of Immigration
Customs Enforcement ("ICE"); U.S.
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of the
Department of Homeland Security
("DHS"); U.S. Department of Homeland
Security; and PAMELA BONDI,
Attorney General of the United States,

Respondents.

CASE NO.: **'26CV1300 CAB BLM**

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS;
COMPLAINT FOR DECLARATORY
RELIEF**

Challenge to Unlawful Incarceration;
Request for Declaratory and Injunctive
Relief

Petitioner Enrique Abraham Tapia-Medina 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:

INTRODUCTION

1. Petitioner Enrique Abraham Tapia-Medina ("Petitioner" or "Mr. Tapia-Medina") is a twenty-five-year-old, Mexican, asylum seeker detained at Otay Mesa Detention Center in San Diego, California. He was persecuted in Mexico including threats of harm and violence because of his particular social group.
2. On or about April 24, 2023, Petitioner came to or near the port of entry at or near Hidalgo, Texas to seek asylum. Respondents arrested and detained Petitioner. On information and belief, based on the individualized facts of Petitioner's case, Respondent DHS released Petitioner from its custody on an Order of Release on Recognizance pursuant to 8 U.S.C. § 1226(a).
3. On or about May 17, 2023, Respondents initiated removal proceedings against Petitioner under 8 U.S.C. §1229a.
4. Respondents alleged that Petitioner is an alien present in the United States without being admitted or paroled, or who arrived in the United States at a time or place other than as designated by the Attorney General pursuant to 212(a)(6)(A)(i) of the Immigration and Nationality Act.
5. Petitioner applied for asylum before the Salt Lake City Immigration Court on April 22, 2024.
6. On January 21, 2026, Mr. Tapia-Medina was arrested and detained by

1 Immigration and Customs Enforcement (ICE) officers on his way to work in Utah
2 and was transferred to San Diego, California.

3 7. Immigration detention is civil in nature and it's permissible only to ensure a
4 noncitizen's appearance at immigration proceedings or to protect the community
5 from danger. DHS did not arrest or detain Mr. Tapia-Medina for either of these
6 legitimate purposes as he plainly poses neither a flight risk nor a danger to the
7 community.
8

9 JURISDICTION

10
11 8. This action arises under the Constitution of the United States and the
12 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

13 9. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
14 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
15 Constitution (Suspension Clause).
16

17 10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.
18 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28
19 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
20

21 VENUE

22 11. Venue is proper because Petitioner is in Respondents' custody in Otay Mesa,
23 California Venue is further proper because a substantial part of the events or
24 omissions giving rise to Petitioner's claims occurred in this District, where
25 Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).
26

27 ///
28

12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

13. Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and is detained by Respondents.

PARTIES

14. Petitioner is a 25-year-old citizen of Mexico. Petitioner is present within the state of California at the time of the filing of this petition.

15. Respondent Christopher LaRose (“LaRose”) is the Senior Warden at Otay Mesa Detention Center in San Diego, California, where Mr. Tapia-Media is detained. LaRose is responsible for the day-to-day operations and confinement of noncitizens detained at that facility. He acts at the direction of Respondents Brightman, Lyons, and Noem. LaRose is a custodian of Mr. Tapia-Medina. and is named in his official capacity.

16. Respondent, Daniel A. Brightman, is the Field Office Director for the San Diego Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The San Diego Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. The San Diego.

///

1 17. Field Office's area of responsibility includes San Diego and Imperial Counties in
2 California. Respondent Daniel Brightman is a legal custodian of Petitioner.

3 18. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs
4 Enforcement, and he has authority over the actions of respondent Daniel
5 Brightman and ICE in general. Respondent Daniel Brightman is a legal custodian
6 of Petitioner.
7

8 19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
9 (DHS) and has authority over the actions of all other DHS Respondents in this
10 case, as well as all operations of DHS. Respondent Noem is a legal custodian of
11 Petitioner and is charged with faithfully administering the immigration laws of
12 the United States.
13

14 20. Respondent Pamela Bondi is the Attorney General of the United States, and as
15 such has authority over the Department of Justice and is charged with faithfully
16 administering the immigration laws of the United States.
17

18 21. Respondent U.S. Immigration Customs Enforcement is the federal agency
19 responsible for custody decisions relating to non-citizens charged with being
20 removable from the United States, including the arrest, detention, and custody
21 status of non-citizens.
22

23 22. Respondent U.S. Department of Homeland Security is the federal agency that has
24 authority over the actions of ICE and all other DHS Respondents.
25

26 23. This action is commenced against all Respondents in their official capacities.
27
28

LEGAL FRAMEWORK

24. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

25. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

26. The Immigration and Nationality Act (INA) sets the rules for detaining noncitizens while the government decides whether they are removable. See 8 U.S.C. § 1226(a).

27. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

28. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

29. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody,

1 the Attorney General may take that individual back into custody by revoking the
2 individual's release when the facts and circumstances warrant it.

3 30. Revocation and return to custody is authorized only based on individualized facts
4 and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are
5 limited in nature and may only be made by certain authorized officials. 8 C.F.R. §
6 1236.1(c)(9).
7

8 **FACTUAL BACKGROUND**

9 31. Petitioner, Enrique Abraham Tapia-Medina, fled a fear of persecution in his home
10 country of Mexico and entered the United States of America seeking protection as
11 a refugee under its asylum laws.
12

13 32. On or about April 25, 2023, Respondents, having conducted an individualized
14 assessment of Petitioner Tapia-Medina's particular circumstances, authorized his
15 release into the United States.
16

17 33. Respondents commenced removal proceedings against Petitioner in immigration
18 court, entitling Petitioner to present an asylum claim with the due process rights
19 under 8 U.S.C. § 1229a.
20

21 34. While released from ICE custody on his own recognizance on or about April 25,
22 2023, he remained free for almost three years. During that time, Petitioner Tapia-
23 Medina complied with every request, demand and requirement imposed by
24 Respondents, in addition to complying with all the court and legal timelines in
25 pursuing immigration relief. He was scheduled for a final merits hearing in
26 2028. ///
27
28

35. ICE detained Mr. Tapia-Medina for no reason or basis while he was on his work break on January 21, 2026. Mr. Tapia-Medina has a valid work authorization.

36. Mr. Tapia-Medina is being detained without explanation.

37. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to detain the Petitioner are arbitrary and capricious and in violation of the law, and to immediately issue an order releasing Petitioner from ICE custody.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Abuse of Discretion Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

38. Petitioner restates and realleges all paragraphs as if fully set forth here.

39. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

40. An action is an abuse of discretion if the agency "entirely failed to 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.*, 463 U.S. 29, 43 (1983)).

41. 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*, 139 S. Ct. 2551, 2569

(2019) (citation omitted).

42. By categorically revoking Petitioner’s release without consideration of his individualized facts and circumstances, Respondents have violated the APA.

43. By detaining the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody.

44. Respondents have already considered Petitioner’s facts and circumstances and determined that he was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of his release on his own recognizance.

45. The fact that Petitioner has already been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

46. Petitioner restates and realleges all paragraphs as if fully set forth here.

47. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory

jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. §706(2)(A)-(D).

48.8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”

49. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).

50. On information and belief, Respondents have revoked or are revoking Petitioner’s prior custody determination as a result of a categorical policy prepared by and implemented by unidentified government officials in Washington, not through the

51. individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.

///

52. Because Petitioner's revocation of release from custody has been made or will be categorically directed by government officials not authorized by law to make this determination, Respondents' detention of Petitioner is not in accordance with law and in excess of statutory authority.

COUNT THREE

Violation of Fifth Amendment Right to Due Process Procedural Due Process

53. Petitioner restates and realleges all paragraphs as if fully set forth here.

54. 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*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306. 62. Due process requires that government action be rational and non-arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

55. While the government has discretion to detain individuals under 8 U.S.C. §1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.

56. Here, Respondents have chosen to revoke Petitioner's release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized

1 custody revocation has been made and no circumstances have changed to make
2 Petitioner a flight risk or a danger to the community, Respondents' revocation of
3 Petitioner's release violates his right to procedural due process.
4

5 **PRAYER FOR RELIEF**

6 **WHEREFORE**, Petitioner respectfully requests this Court to grant the following:
7

- 8 1. Assume jurisdiction over this matter;
- 9 2. Issue an Order to Show Cause ordering Respondents to show cause why this
10 Petition should not be granted within three days;
- 11 3. Declare that Petitioner's detention without an individualized determination
12 violates the Due Process Clause of the Fifth Amendment;
- 13 4. Declare that Petitioner's revocation of parole from custody was made in
14 violation of statute and regulation;
- 15 5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner
16 from custody with no additional restrictions;
- 17 6. Award Petitioner attorney's fees and costs under the Equal Access to Justice
18 Act, and on any other basis justified under law; and
- 19 7. Grant any further relief this Court deems just and proper.
20
21
22

23
24 Date: February 27, 2026

STERGER LAW GROUP, P.C.

25
26 By: /s/ Richard S. Sterger, Esq.

27 Richard S. Sterger, Esq.
28 Attorney for Petitioner
Marcelino Pedro Ramos Ramos