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7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 VICTOR MANUEL PEREZ BARRIOS,)

11 *Petitioner,*)

12 *v.*)

13 **PETITION FOR WRIT**
14 **OF HABEAS CORPUS**

15 *Warden of IMPERIAL REGIONAL DETENTION*)
16 *FACILITY; Ernesto Santacruz Jr in his official*)
17 *Capacity as Field Office Director of the*)
18 *Immigration and Customs Enforcement,*)
19 *Enforcement and Removal Operations*)
20 ADELANTO DETENTION FACILITY; KRISTI)
21 NOEM, *in her official capacity as Secretary of the*)
22 *U.S. Department of Homeland Security; and PAM*)
23 *BONDI, in her official capacity as Attorney*)
24 *General of the United States,*)

25 *Respondents.*)
26)
27)

28
29 **INTRODUCTION**

- 30 1. Petitioner, Victor Manuel Perez Barrios (“Petitioner”), through this petition for Writ of
31 Habeas Corpus pursuant to 28 U.S.C. §2241, respectfully requests that this Court review the
32 legality of his continued detention by U.S. Immigration and Customs Enforcement (“ICE”).
- 33 2. Petitioner has been in custody since September 17, 2025, following an arrest that lacked
34 probable cause and resulted in his transfer to ICE custody.

- 1 3. Petitioner remains detained without a meaningful opportunity to be heard, despite having a
- 2 pending appeal before the Board of Immigration Appeals (“BIA”) and strong ties to the
- 3 community.
- 4 4. Petitioner’s continued detention violates his statutory and constitutional rights under the Due
- 5 Process Clause of the Fifth Amendment.
- 6 5. Petitioner has resided continuously in the United States since approximately the year 1995.
- 7 6. Petitioner is currently detained at the Imperial Regional Detention Facility.
- 8 7. Accordingly, Petitioner respectfully requests that this Court order Respondents to
- 9 provide him with a prompt and constitutionally adequate bond hearing before an Immigration
- 10 Judge, or, in the alternative, to release him from custody if such a hearing is not provided
- 11 within a reasonable period.
- 12

13 JURISDICTION

- 14 8. This action arises under the Constitution of the United States and the Immigration and
- 15 Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
- 16 9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C.
- 17 § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
- 18 (Suspension Clause).
- 19 10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the
- 20 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
- 21 § 1651.
- 22 11. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 2241 because Petitioner
- 23 is in federal custody and challenges the statutory and constitutional validity of that detention.
- 24 Federal courts retain jurisdiction to review claims that immigration detention violates the
- 25 Constitution or exceed statutory authority including claims arising under 8 U.S.C. § 1226(a).
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VENUE

12. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at Imperial Regional Detention Facility in Calexico, California, which is within the jurisdiction of this District.
13. Venue is proper in this District because a substantial part of the events or omissions giving rise to this action occurred and continue to occur at Imperial Regional Detention Facility in Calexico, California. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

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

PARTIES

16. Petitioner was arrested by ICE officers on or about September 17, 2025, and was transferred to a detention center in Arizona for three months and is now at Imperial Regional Detention Center where he is currently detained under the direct control of Respondents and their agents.
17. The acting Warden of Imperial Regional Detention Facility has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs

1 Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent is a
2 legal custodian of Petitioner.

3 18. Respondent Ernesto Santacruz Jr is sued in his official capacity as the Acting Director of the
4 Los Angeles Field Office of U.S. Immigration and Customs Enforcement. Respondent
5 Santacruz is a legal custodian of Petitioner and has authority to release him.

6 19. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S.
7 Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible
8 for the implementation and enforcement of the Immigration and Nationality Act, and
9 oversees U.S. Immigration and Customs Enforcement, the component agency responsible for
10 Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.

11 20. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United
12 States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she
13 has the authority to adjudicate removal cases and to oversee the Executive Office for
14 Immigration Review (EOIR), which administers the immigration courts and the BIA.
15 Respondent Bondi is a legal custodian of Petitioner.

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18 **STATUTORY FRAMEWORK: 8 U.S.C. §1226(a)(2)**

19 21. INA §236(a), codified at 8 U.S.C. §1226(a), governs discretionary pre-final order detention.

20 Section 1226(a)(2) expressly authorizes the release of detained noncitizens:

21 "The Attorney General may release the alien on (A) bond of at least \$1,500...or (B)
22 conditional parole."

23
24 22. Unlike mandatory detention provisions, §1226(a)(2) presumes the availability of release and
25 requires individualized custody determination. Detention without access to a bond hearing
26 under this provision is ultra vires and unconstitutional.

27 **STATEMENT OF FACTS**

1 23. On or about September 17, 2025, in the early morning hours shortly after 5:00 a.m. Petitioner
2 was walking home on the street sidewalk in Los Angeles, California. [**Exhibit A:** Declaration
3 from Victor Manuel Perez Barrios]. Three or four unmarked vehicles suddenly surrounded
4 him. *Id.* Officers told Petitioner that they wanted to talk with him. *Id.* The officers did not ask
5 for his name or identification, and it appeared as though they already knew who he was. *Id.*
6 Petitioner became frightened and believed that he was being kidnapped because the vehicles
7 were unmarked and he was surrounded without explanation. *Id.*
8

9 24. Petitioner was arrested despite the absence of any apparent probable cause.

10 25. The day prior to this incident, Petitioner had given a ride to his longtime friend to a Vons
11 Market and dropped the person off in the parking lot. [**Exhibit A:** Declaration from Victor
12 Manuel Perez Barrios]. His friend had asked him for a favor to borrow his car, but Petitioner
13 preferred to give him a ride rather than lend him the car. *Id.* Police stopped Petitioner at the
14 parking lot and arrested him for driving without a license. *Id.* While he was waiting to be
15 released, officers informed him that additional charges were being added, H & S §11379(a)
16 Transportation or sale of a controlled substance and H & S §11378 Possession of a controlled
17 substance for sale. *Id.* Petitioner declares that he merely gave the individual a ride to the
18 market. *Id.*
19

20 26. Petitioner maintains his innocence and intends to fight the charges in state court. Petitioner
21 hired attorney Victor Michel Salerno to represent him in the criminal proceedings. 

22  However, after being released from the police
23 station, Petitioner was taken into ICE custody. Because he was detained by ICE, Petitioner
24 was unable to appear at his scheduled state court hearing. *Id.* As a result, the state court
25 issued a bench warrant in the amount of \$50,000. *Id.* Petitioner has not been convicted of the
26 charges and intends to clear his name once released from ICE custody. *Id.*
27
28

1 27. Petitioner is currently detained at the Imperial Regional Detention Center, in Calexico,
2 California pending removal proceedings under 8 U.S.C. §1226(a).

3 28. Petitioner remains detained despite the discretionary nature of §1226(a) detention and
4 without a hearing guaranteed by statute and due process.

5 29. ICE has not identified any exceptional circumstances warranting Petitioner's continued
6 detention under ICE policy.

7 LEGAL FRAMEWORK

8
9 30. The Due Process Clause requires that the deprivation of Petitioner's liberty be narrowly
10 tailored to serve a compelling government interest. See *Reno v. Flores*, 507 U.S. 292, 301–02
11 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’
12 liberty interests at all, no matter what process is provided, unless the infringement is
13 narrowly tailored to serve a compelling state interest”). As the Supreme Court held in
14 *Zadvydas*, indefinite detention, and detention without adequate procedural protections, would
15 raise a “serious constitutional problem” and run afoul of the Due Process Clause. 533 U.S. at
16 690.

17
18 31. Section 1226(a) authorizes the Attorney General to arrest and detain a noncitizen “pending a
19 decision on whether the alien is to be removed.” Detention under § 1226(a) is discretionary
20 and permits release on bond or conditional parole unless the person falls within the limited
21 mandatory detention provisions of § 1226(c). The Ninth Circuit has held that individuals
22 detained under § 1226(a) are entitled to individualized bond hearings where the government
23 bears the burden to show, by clear and convincing evidence, that continued detention is
24 justified by flight risk or danger. *Rodriguez v. Robbins*, 804 F.3d 1060, 1078 (9th Cir. 2015),
25 vacated on other grounds, *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). When detention
26 under § 1226(a) becomes prolonged, it must remain reasonably related to its purposes of
27 ensuring appearance and protecting the community. See *Demore v. Kim*, 538 U.S. 510, 531
28

1 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Continued detention without a final
2 order of removal, absent these justifications, is arbitrary, excessive, and violates the Due
3 Process Clause.

4 32. On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*,
5 29 I. & N. Dec. 216 (BIA 2025). The Board held that any noncitizen present in the United
6 States without inspection or admission is subject to detention under INA § 235(b)(2) (8
7 U.S.C. § 1225(b)(2)), rather than § 236(a) (8 U.S.C. § 1226(a)). This interpretation treats all
8 such noncitizens as “applicants for admission” and places them in mandatory detention
9 without bond eligibility before immigration judges.
10

11 33. The decision overruled longstanding agency practice that classified interior arrests of
12 noncitizens who entered without inspection under INA § 236(a) (8 U.S.C. § 1226(a)), which
13 permits discretionary release on bond or parole. Under *Yajure Hurtado*, only those
14 noncitizens who have been formally “admitted,” as defined in INA § 101(a)(13)(A), retain
15 bond eligibility.
16

17 34. The Central District of California has rejected DHS’s attempt to treat interior-arrest
18 noncitizens as mandatory detainees under § 1225(b). (*Maldonado Bautista v. Santacruz*, No.
19 5:25-cv-01873, TRO Order (C.D. Cal. July 28, 2025)). In *Maldonado Bautista v. Santacruz*,
20 the court granted a Temporary Restraining Order enjoining DHS from detaining similarly
21 situated individuals without providing an individualized §1226(a) bond hearing, holding that
22 DHS’s reliance on § 1225(b) for interior arrests was unconvincing and inconsistent with the
23 statutory framework. *Id.* **The court concluded that individuals arrested inside the United**
24 **States and detained under § 1226(a) were being unlawfully deprived of the procedural**
25 **protections guaranteed by that statute, including a bond hearing before a neutral**
26 **adjudicator. *Id.***
27
28

CLAIMS FOR RELIEF

COUNT ONE

Violation Of Immigration and Nationality Act, 8 U.S.C. § 1226(a)

35. Petitioner realleges and incorporates by reference the paragraphs above.

36. 8 U.S.C. § 1226(a) authorizes the Attorney General to arrest and detain a noncitizen

“pending a decision on whether the alien is to be removed,” but expressly permits release on bond or conditional parole. This provision governs the detention of individuals, like Petitioner, who have not been ordered removed and whose proceedings remain pending.

37. Detention under § 1226(a) must remain reasonably related to its purposes of ensuring appearance at removal proceedings and protecting the community. When those justifications no longer apply, continued custody exceeds the scope of the statute. See *Demore v. Kim*, 538 U.S. 510, 529–31 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

38. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 830 (2018), distinguished between the discretionary detention authority in § 1226(a) and the mandatory detention provisions of § 1226(c). *Jennings* held that § 1226(a) allows for release on bond or conditional parole and does not itself impose mandatory custody. While the Court rejected the imposition of automatic, periodic bond hearings as a matter of statutory interpretation, it left open the constitutional question of whether prolonged detention without an individualized hearing violates due process. See *id.* at 851 (remanding to consider constitutional claims).

39. Subsequent courts have recognized that such prolonged detention without a hearing raises serious due process concerns. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021) (holding that due process requires the government to justify continued §1226(a) detention by clear and convincing evidence of danger or by a preponderance of evidence of flight risk).

40. Petitioner is detained under 8 U.S.C. §1226(a), which governs pre-final-order detention for individuals in ongoing removal proceedings. Respondents’ continued detention of Petitioner

1 without affording a bond hearing violates §1226(a)'s plain language and structure. Detention
2 under §1226(a) must be justified by legitimate governmental interests, however Respondents
3 have not demonstrated that Petitioner presents a flight risk or danger to the community,
4 making his continued detention is arbitrary, excessive, and contrary to law.

5 41. Following *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), Respondents have
6 adopted a blanket interpretation that classifies all noncitizens who entered without inspection
7 as subject to mandatory detention under §1225(b), thereby denying bond eligibility to those
8 properly detained under §1226(a). This interpretation is inconsistent with the statute and
9 longstanding practice, resulting in the unlawful denial of individualized bond determinations.
10

11 42. The IJ's reliance on *Matter of Yajure Hurtado* does not divest this Court of jurisdiction.

12 Federal District Courts retain habeas authority to review unlawful detention, even where the
13 agency claims it lacks jurisdiction to provide relief. Where no bond hearing is available
14 within the administrative system, habeas relief is not only appropriate, but also essential.
15

16 43. Notably, The Central District of California has rejected DHS's attempt to treat interior-arrest
17 noncitizens as mandatory detainees under §1225(b). (*Maldonado Bautista v. Santacruz*, No.
18 5:25-cv-01873, TRO Order (C.D. Cal. July 28, 2025)). In *Maldonado Bautista v. Santacruz*,
19 the court granted a Temporary Restraining Order enjoining DHS from detaining similarly
20 situated individuals without providing an individualized §1226(a) bond hearing, holding that
21 DHS's reliance on §1225(b) for interior arrests was unconvincing and inconsistent with the
22 statutory framework. *Id.* The court concluded that individuals arrested inside the United
23 States and detained under §1226(a) were being unlawfully deprived of the procedural
24 protections guaranteed by that statute, including a bond hearing before a neutral adjudicator.
25 *Id.*

26
27 44. Here, the Petitioner is in a similar posture as the Petitioners in *Maldonado Bautista*. He was
28 arrested in the interior of the United States and Petitioner is entitled to habeas relief directing

1 the government to provide a prompt §1226(a) bond hearing or order his release.

2 45. Petitioner has lived in the United States since 1995 and has built his life and support network
3 here. Petitioner has a two (2) year old United States citizen daughter and a twenty-three-year-
4 old United States citizen son. As a noncitizen detained under §1226(a), he is entitled to an
5 individualized bond determination.

6 46. Accordingly, the Court should declare that Respondents' lack of statutory authority to detain
7 Petitioner under §1226(a) without providing a constitutionally adequate bond hearing and
8 should order either (1) a prompt bond hearing before an Immigration Judge at which the
9 government bears the burden of proof, or (2) Petitioner's release from custody pursuant to 28
10 U.S.C. § 2241.

11
12 **COUNT TWO**
Violation of Fifth Amendment Due Process Clause

13 47. The allegations in the above paragraphs are realleged and incorporated herein.

14 48. The Due Process Clause of the Fifth Amendment forbids the government from depriving any
15 person of liberty without due process of law. U.S. Const. amend. V. "Freedom from
16 imprisonment—from government custody, detention, or other forms of physical restraint—
17 lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at
18 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Civil immigration detention
19 violates due process if it is not reasonably related to its statutory purpose. See *id.* at 690
20 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the
21 Supreme Court has recognized only two valid purposes for civil detention: to mitigate the
22 risk of flight and prevent danger to the community. *Id.*; *Demore v. Kim*, 538 U.S. 510, 514–
23 15, 528 (2003). Courts have further held that prolonged detention under 8 U.S.C. §1226(a)
24 implicates due process and requires the government to justify continued confinement at a
25 meaningful bond hearing. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021)
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1 (requiring the government to prove danger by clear and convincing evidence or flight risk by
2 a preponderance of the evidence).

3 49. The due process concerns identified in *Maldonado Bautista v. Santacruz* further demonstrate
4 that Respondent's continued detention without a bond hearing is unconstitutional. In granting
5 the TRO, the court found that DHS's misapplication of §1225 deprived interior-arrest
6 noncitizens of the legal protections guaranteed under §1226(a), raising "serious question[s]"
7 as to whether DHS had permissibly altered its detention practices to withhold statutory and
8 constitutional safeguards. TRO Order at 5–7. The court emphasized that continued detention
9 under an unlawful policy serves "neither equity nor the public interest," and "potentially
10 arbitrarily violates due process rights." *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir.
11 2022); see also *Xuyue Zhang v. Barr*, 612 F. Supp. 3d 1005, 1017 (C.D. Cal.) (public interest
12 is implicated whenever constitutional rights are denied). As in *Maldonado Bautista*,
13 Respondent's detention under the incorrect statutory framework deprives her of the
14 procedural protections mandated by §1226(a), rendering her continued detention
15 fundamentally inconsistent with the Fifth Amendment. This concern is heightened because
16 Respondent has been detained for five months without a bond hearing.

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19 50. Civil immigration detention is lawful only when accompanied by adequate procedural
20 protection. Detention without any hearing based solely on categorical jurisdictional reasoning
21 results in punishment rather than regulation and offends fundamental principles of due
22 process.

23
24 51. *Matter of Yajure Hurtado* cannot be applied to authorize detention without a hearing.

25 Administrative precedent cannot override constitutional guarantees. To the extent that Yajure
26 Hurtado is interpreted to bar all bond hearings for certain noncitizens, it raises serious
27 constitutional concerns and must be limited or rejected as applied.

28 52. First, Petitioner does not pose a danger to the community. Petitioner has lived in the United

1 States since 1995.

2 53. Second, Petitioner does not pose a risk of flight. He has a stable residence and family, a U.S.
3 citizen wife and U.S. citizen children, and a reliable support network in the United States. He
4 is represented by counsel in his immigration proceedings demonstrating his commitment to
5 pursuing his case through lawful channels. These factors collectively establish that Petitioner
6 can and will comply with any conditions of release set by the Court or an Immigration Judge.

7
8 54. In the Ninth Circuit, detention under INA §236(a) requires a bond hearing where the
9 government bears the burden of justifying continued detention. The Constitution does not
10 permit indefinite detention based on a legal label alone.

11 55. For these reasons, Petitioner's continued detention violates the Due Process Clause of the
12 Fifth Amendment, and he must be immediately released. The Court should order
13 Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing
14 before an Immigration Judge, at which the Government bears the burden of demonstrating
15 flight risk or danger.
16

17 **COUNT THREE**
18 **Unlawful and Prolonged Detention in Violation of the Due Process Clause**

19 56. Petitioner re-alleges and incorporates all prior paragraphs.

20 57. Petitioner has been detained by ICE since on or about September 17, 2025. His detention has
21 become unreasonably prolonged.

22 58. Petitioner has not received a constitutionally adequate bond hearing before a neutral decision
23 maker.

24 59. Continued detention without an individualized bond hearing violates the Due Process Clause
25 of the Fifth Amendment.

26
27 60. Petitioner is neither a flight risk nor a danger to the community. He has significant family ties
28 in the United States, including U.S. citizen children.

1 61. Less restrictive alternatives to detention are available.

2 **COUNT FOUR**
3 **Request for Attorney's Fees Under the Equal Access to Justice Act**

4 62. If he prevails, Petitioner requests attorney's fees and costs in the amount of \$5,000 under the
5 Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

6 **PRAYER FOR RELIEF**

7 Wherefore, Petitioner respectfully requests this Court to grant the following:

- 8 (1) Assume jurisdiction over this matter.
- 9 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should
10 not be granted within three days.
- 11 (3) Declare that Petitioner's detention violates the Immigration and Nationality Act and Due
12 Process Clause of the Fifth Amendment.
- 13 (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- 14 (5) Enjoin Respondents from further unlawfully detaining Petitioner.
- 15 (6) In the alternative, grant a writ of habeas corpus ordering Respondents to immediately release
16 Petitioner from custody under reasonable conditions of supervision.
- 17 (7) In the alternative, grant a writ of habeas corpus ordering Respondents to provide Petitioner
18 with a prompt and individualized bond determination hearing pursuant to 8 U.S.C. §1226(a),
19 before a neutral Immigration Judge, at which the Government bears the burden of proving
20 that Petitioner is a danger to the community by clear and convincing evidence or a flight risk
21 by a preponderance of the evidence.
- 22 (8) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any
23 other basis justified under law and
- 24 (9) Grant any further relief this Court deems just and proper.
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1 Respectfully submitted,

2 Dated: February 19, 2026

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4 /s/Alfonso Morales

5 Alfonso Morales, Esq.

6 *Attorney for Victor Manuel Perez Barrios*
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Victor Manuel Perez Barrios, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 19^h day of February 2026.

/s/Alfonso Morales
Alfonso Morales, Esq.
Attorney for Victor Manuel Perez Barrios