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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA

9 Case No.: '26CV1455 RBM SBC

10 **ERCAN CETINKAYA,**



11
12 Petitioner,

**PETITION FOR WRIT
OF HABEAS CORPUS**

13 v.

14 **PAMELA BONDI**, Attorney General of the
15 U.S.;

16 **KRISTI NOEM**, Secretary of the U.S.
17 Department of Homeland Security;

18 **TODD M. LYONS**, in his official capacity
19 as Acting Director of U.S. Immigration and
20 Customs Enforcement;

21 **DANIEL A. BRIGHTMAN**, in his official
22 Capacity as Acting Field Office Director of
23 the Field Office of the San Diego, California,
24 U.S. Immigration and Customs Enforcement
(or successor); and

25 **CHRISTOPHER J. LAROSE**, Warden of
26 the Imperial Regional Detention Facility

27
28 Respondents.

I. INTRODUCTION

1 1. Petitioner Ercan Cetinkaya, a native and citizen of Turkiye, petitions this Court for a
2 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to challenge his continued custodial
3 detention by the United States Department of Homeland Security ("DHS"), through its
4 component agency, U.S. Immigration and Customs Enforcement ("ICE"). Mr. Cetinkaya
5 challenges Respondents' assertion that he is subject to mandatory detention under 8 U.S.C. §
6 1225(b).

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8 2. Mr. Cetinkaya was previously arrested inside the United States, served with a Notice
9 to Appear, placed in removal proceedings under Section 240 of the Immigration and
10 Nationality Act ("INA"), and released on his own recognizance pursuant to Form I-220A on
11 March 9, 2022. See Exhibit C. Despite his prior release and full compliance with all reporting
12 obligations, Respondents have re-detained him and are treating him as subject to mandatory
13 detention without bond eligibility.

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15 3. Mr. Cetinkaya was arrested by ICE inside the United States, not at a port of entry, and
16 was placed in removal proceedings before the Immigration Court. He has a pending Form
17 I-589 Application for Asylum and for Withholding of Removal.

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19 4. Mr. Cetinkaya's continued detention without an individualized custody determination
20 violates the Immigration and Nationality Act and the Due Process Clause of the Fifth
21 Amendment, as well as binding agency regulations. Having previously been released on
22 recognizance and allowed to reside in the community while his removal proceedings were
23 pending, Respondents' categorical re-detention without a bond hearing constitutes arbitrary
24 civil confinement without adequate procedural safeguards or meaningful judicial review.

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26 5. Petitioner seeks habeas relief ordering his immediate release from ICE custody or, in
27 the alternative, an order directing Respondents to provide him with a prompt, constitutionally
28 adequate, and individualized custody determination before a neutral decisionmaker with
authority to order release.

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II. JURISDICTION AND VENUE

6. Mr. Cetinkaya is detained at Imperial Regional Adult Detention Facility, located in Imperial County, California, within the jurisdiction of the United States District Court for the Southern District of California. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, the Immigration and Nationality Act, and the Fifth Amendment to the United States Constitution.

7. Sections 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not bar jurisdiction because Mr. Cetinkaya does not challenge any final order of removal, nor does he seek review of a removal proceeding. Rather, he challenges the legality of his present civil immigration detention. Furthermore, Petitioner does not ask this Court to review or second-guess a discretionary bond determination. Mr. Cetinkaya has not been provided a constitutionally adequate individualized custody determination following his re-detention, despite having previously been released on his own recognizance pursuant to Form I-220A on March 9, 2022 and having complied with all conditions of release. He challenges DHS's asserted authority to subject him to continued mandatory detention without a meaningful individualized custody determination by a neutral decisionmaker empowered to order release, and he challenges the lawfulness of the government's detention process as applied to him.

8. The decision to release Mr. Cetinkaya was based on his documented medical vulnerability. On March 8, 2022, ICE issued a Notice of Custody Determination formally identifying Mr. Cetinkaya as having a "Chronic Care Condition" confirmed by a medical professional. The agency explicitly noted that these risk factors placed him "at heightened risk of severe illness and death" while in custody. Because of this, ICE affirmatively selected the option for him to "Be released from custody" and noted he was "Released on OREC/ATD as a FRAIHAT Class member." See Exhibit D.

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III. EXHAUSTION

9. Generally, a petitioner seeking habeas corpus under 28 U.S.C. § 2241 must exhaust administrative remedies. A petitioner need not exhaust administrative remedies when the requirement is prudential rather than jurisdictional, and the claim presents pure questions of law or constitutional interpretation. See *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (upholding the waiver of prudential exhaustion in a habeas challenge to immigration detention policies); *Laing v. Ashcroft*, 370 F.3d 994, 1000-01 (9th Cir. 2004) (noting that prudential exhaustion may be waived where administrative remedies are inadequate or futile).

10. Here, exhaustion is both futile and inapplicable. Respondents assert that Mr. Cetinkaya is subject to mandatory detention under 8 U.S.C. § 1225(b). Under the Board of Immigration Appeals' recent precedent in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), an Immigration Judge lacks jurisdiction to redetermine the custody status of an individual detained under § 1225(b). Therefore, any administrative request for a bond hearing before the immigration court would be legally futile, as the Immigration Judge would be bound to deny jurisdiction. Because requesting a bond hearing would be a futile exercise, and because the core issue hinges entirely on the statutory construction of 8 U.S.C. §§ 1225 and 1226 as applied to Mr. Cetinkaya—who was previously released on his own recognizance pursuant to Form I-220A and is currently in Section 240 removal proceedings—he is exempt from any exhaustion requirement.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

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11. The Court should grant the Petition for Writ of Habeas Corpus or issue an Order to Show Cause to Respondents forthwith, unless Mr. Cetinkaya is not entitled to relief. See 28 U.S.C. § 2243. If an Order to Show Cause is issued, the Court should require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

V. PARTIES

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3 12. Mr. Cetinkaya is detained in the Imperial Regional Adult Detention Facility in
4 Imperial County, California, which is within the jurisdiction of the United States District
5 Court for the Southern District of California. He is in the custody and under the direct
6 control of Respondents and their agents.

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8 13. Respondent Warden of the Imperial Regional Adult Detention Facility is sued in his
9 official capacity as the Facility Administrator of the Imperial Regional Adult Detention
10 Facility in Imperial County, California. Respondent Warden of the Imperial Regional Adult
11 Detention Facility has immediate physical custody of Mr. Cetinkaya and has the authority
12 to release him.

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14 14. Respondent Daniel A. Brightman is sued in his official capacity as Acting Field
15 Office Director of the San Diego Field Office of U.S. Immigration and Customs
16 Enforcement and supervises and oversees the Imperial Regional Adult Detention Facility
17 staff.

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19 15. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of
20 U.S. Immigration and Customs Enforcement and supervises and oversees Respondent
21 Brightman.

22
23 16. Respondent Kristi Noem is sued in her official capacity as the Secretary of the
24 Department of Homeland Security. In this capacity, Respondent Kristi Noem is responsible
25 for the implementation and enforcement of the INA and oversees ICE, the component
26 agency directly responsible for Mr. Cetinkaya's detention. See 8 U.S.C. § 1103(a).
27 Respondent Kristi Noem is a legal custodian of Petitioner..
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1 17. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of
2 the United States. The Attorney General oversees the Executive Office for Immigration
3 Review and, within the Executive Branch, is the arbiter of all questions of law pertaining to
4 the Immigration and Nationality Act. See 8 U.S.C. § 1103(a)(1), 1103(g).
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6 **VI. STATEMENT OF FACTS**
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8 18. Mr. Cetinkaya is a native and citizen of Turkiye.
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10 19. On or about February 28, 2022, Mr. Cetinkaya arrived in the United States at or near
11 El Paso, Texas, without having been admitted or paroled after inspection by an immigration
12 officer. Mr. Cetinkaya was later arrested by immigration authorities inside the United States
13 and placed in immigration detention. See Exhibit A.
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15 20. ICE served Mr. Cetinkaya with a Notice to Appear (NTA) dated March 2, 2022,
16 charging him as removable under section 212(a)(6)(A)(i) of the Immigration and Nationality
17 Act, as an alien present in the United States without being admitted or paroled. See Exhibit B.
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19 21. On or about February 25, 2026, ICE officers apprehended Mr. Cetinkaya in California
20 during an interior enforcement operation. He was not arrested at or near the border. At the
21 time, he had a pending asylum application, no criminal history, and was residing and working
22 within the interior of the United States. ICE took him into custody without providing any
23 individualized justification and placed him in immigration detention.
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26 22. Mr. Cetinkaya has an asylum case currently pending before the Immigration Court
27 pursuant to Section 240 of the Immigration and Nationality Act.
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VII. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act, 8 U.S.C. §§ 1225(b) and 1226(a)

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4 23. Mr. Cetinkaya incorporates and realleges all factual statements above as if fully set
5 forth here.

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7 24. Respondents' theory that Mr. Cetinkaya is subject to mandatory detention under 8
8 U.S.C. § 1225(b) rests on their mistaken reinterpretation of the Immigration and Nationality
9 Act's detention provisions at 8 U.S.C. §§ 1225(b) and 1226(a). At least four reasons
10 demonstrate the incorrectness of the Respondents' position.
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12 25. First, the Respondents' reinterpretation of the INA's detention provisions conflicts
13 with the Supreme Court's opinion in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). In
14 *Jennings*, the Supreme Court instructed that 8 U.S.C. § 1225(b) "applies primarily to aliens
15 seeking entry into the United States ('applicants for admission' in the language of the
16 statute)." *Id.* at 297. Section 1226, on the other hand, applies to aliens already present in the
17 United States. *Id.* at 303. "Section 1226(a) creates a default rule for those aliens by permitting
18 —but not requiring—the Attorney General to issue warrants for their arrest and pending
19 removal proceedings." *Id.* "Section 1226(a) also permits the Attorney General to release those
20 aliens on bond..." *Id.* As applied here, Mr. Cetinkaya was apprehended within the interior of
21 the United States and placed in removal proceedings under Section 240 of the INA.
22 Accordingly, the statutory framework described in *Jennings* confirms that detention authority,
23 if any, must arise under § 1226 rather than § 1225(b). Mr. Cetinkaya has been in the United
24 States since on or about February 28, 2022. By any measure, he is "already present in the
25 United States." *Jennings*, 583 U.S. at 303. Under these circumstances, *Jennings* instructs that
26 the authority to detain Mr. Cetinkaya does not stem from 8 U.S.C. § 1225(b). The
27 Respondents' reinterpretation of §§ 1225(b) and 1226(a) conflicts with *Jennings* and must be
28 rejected.

1 26. Second, it is settled that a "statute should be construed so that effect is given to all its
2 provisions, so that no part will be inoperative or superfluous, void or insignificant." *Hibbs v.*
3 *Winn*, 542 U.S. 88, 101 (2004) (internal quotations omitted). The Respondents'
4 reinterpretation of § 1225(b) would render recently adopted provisions in 8 U.S.C. § 1226
5 completely superfluous. See *Maldonado Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal.
6 Dec. 18, 2025). In 2025, Congress passed the Laken Riley Act which amended § 1226(c) to
7 add new categories of noncitizens subject to mandatory detention. See *Laken Riley Act*, Pub.
8 L. No. 119-1 § 2, 139 Stat. 3, 3 (2025). The amended subsection explicitly requires
9 mandatory detention of all noncitizens who (1) are 'inadmissible' for entering the country
10 without being admitted or paroled and (2) have been charged with or convicted of certain
11 crimes such as burglary. See 8 U.S.C. § 1226(c)(1)(E). If § 1225(b) required what
12 Respondents now claim—that mandatory detention applies categorically to all noncitizens
13 who entered the United States without admission or parole—there would have been no need
14 for Congress to amend § 1226(c) to mandate detention for those who both entered without
15 admission and committed certain enumerated crimes. See *Maldonado Bautista*, No. 5:25-
16 CV-1873 (C.D. Cal. Dec. 18, 2025); see also *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995)
17 ("When Congress acts to amend a statute, we presume it intends its amendment to have real
18 and substantial effect.").

21 27. Moreover, the Respondents' reinterpretation of the detention provisions would upend
22 decades of practice. Indeed, mandatory detention for all applicants has only been the official
23 policy of the Department of Homeland Security ("DHS") since July 8, 2025, when Acting
24 Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal
25 memorandum explaining that the agency had 'revisited its legal position.' See *Maldonado*
26 *Bautista*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025) (enjoining the policy). In short, past
27 agency practice heavily favors applying § 1226 to noncitizens like Mr. Cetinkaya.
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1 28. The novelty of Respondents' new theory of immigration detention is underscored by
2 its uniform rejection by federal district courts. In *Guzman v. Bondi*, No. 1:25-CV-2055-RP
3 (W.D. Tex. Dec. 23, 2025), the court squarely rejected the government's reliance on the
4 Board of Immigration Appeals' recent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec.
5 216 (BIA 2025). The *Guzman* court held that individuals arrested in the interior are not
6 subject to mandatory detention under § 1225(b)(2) and ordered the petitioner's immediate
7 release. Similarly, in *Camacho v. Hollinshead*, No. 1:25-cv-00593-BLW (D. Idaho Nov. 19,
8 2025), the court held that applying § 1225(b)(2) to interior arrests defies the statute's plain
9 text and decades of established practice, reaffirming that § 1226(a) is the proper governing
10 statute.

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12 29. The Board's attempt in *Yajure Hurtado* to classify noncitizens apprehended in the
13 interior as subject to § 1225(b) cannot be reconciled with the Supreme Court's explicit
14 statutory interpretation in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). In *Jennings*, the Court
15 clearly distinguished "applicants for admission" at the border under § 1225 from noncitizens
16 "already present in the United States" under § 1226. *Id.* at 297, 303.

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18 30. Because agency interpretations that conflict with the unambiguous command of a
19 statute or binding Supreme Court precedent are owed no deference, see *Loper Bright Enters.*
20 *v. Raimondo*, 603 U.S. 369, 402 (2024), Respondents' reliance on *Yajure Hurtado* to justify
21 Mr. Cetinkaya's detention without a bond hearing is legally baseless. Under the governing
22 statutory framework and binding precedent, Mr. Cetinkaya's custody must be governed by 8
23 U.S.C. § 1226(a).

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25 **VIII. COUNT TWO**

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27 **Violation of Fifth Amendment Right to Due Process**
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1 31. Mr. Cetinkaya incorporates and realleges the factual statements above as if fully set
2 forth here.

3 32. It is settled that the Fifth Amendment's Due Process Clause applies to all "persons"
4 within the United States. See *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Mr. Cetinkaya has
5 been in the United States since on or about February 28, 2022. The term "persons" includes
6 foreign nationals such as Mr. Cetinkaya. See *id.* It is equally well settled that freedom from
7 confinement is a core liberty interest and violation of that liberty interest raises a colorable
8 substantive due process claim. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing
9 *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *Reno v. Flores*, 507 U.S. 292, 301 (1993)
10 (collecting cases); see also *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (bodily freedom is
11 the "most elemental of liberty interests").
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13 33. As such, Mr. Cetinkaya also has a right to procedural due process. Immigration
14 proceedings are civil and they are intended to be "nonpunitive in purpose and effect."
15 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Over a century of Supreme Court precedent
16 instructs that the Fifth Amendment entitles foreign nationals to procedural due process. See
17 *Reno v. Flores*, 507 U.S. 292, 306 (1993) (citing *The Japanese Immigrant Case*, 189 U.S. 86
18 (1903)). A failure to provide any process whatsoever contravenes over a century of Supreme
19 Court precedent interpreting the Due Process Clause as applying to foreign nationals such as
20 Mr. Cetinkaya. See, e.g., *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
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22 34. To determine whether civil detention violates a detainee's Fifth Amendment procedural
23 due process rights, courts apply the three-part test articulated in *Mathews v. Eldridge*, 424 U.S.
24 319 (1976). *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). Under that test, courts
25 must weigh (1) 'the private interest that will be affected by the official action'; (2) 'the risk of
26 an erroneous deprivation of such interest through the procedures used, and the probable value,
27 if any, of additional or substitute procedural safeguards'; and (3) 'the Government's interest,
28 including the function involved and the fiscal and administrative burdens that the additional or
substitute procedural requirement would entail.' *Id.* (quoting *Mathews*, 424 U.S. at 335).

1 35. Mr. Cetinkaya invokes "the most elemental of liberty interests: the interest in being free
2 from physical detention." Hernandez, 872 F.3d at 990 (citing Hamdi v. Rumsfeld, 542 U.S. 507,
3 529 (2004)). To be sure, the Respondents' refusal to provide any process whatsoever creates a
4 significant risk that Mr. Cetinkaya will be deprived of that interest.

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6 36. This risk is severely compounded by Mr. Cetinkaya's documented medical vulnerabilities.
7 ICE itself previously determined in March 2022 that Mr. Cetinkaya's chronic care conditions
8 place him at a "heightened risk of severe illness and death" in custody, which necessitated his
9 initial release. Re-subjecting him to indefinite, mandatory detention without a hearing despite
10 these known health risks represents a profound and dangerous deprivation of his liberty and
11 bodily integrity.

12
13 37. The Government's interest in implementing its novel reinterpretation of 8 U.S.C. §
14 1225(b) is minimal. This new approach attempts to upend decades of immigration practice. See
15 Maldonado Bautista, No. 5:25-CV-1873. Indeed, mandatory detention for all applicants has only
16 been the official policy of the Department of Homeland Security ("DHS") since July 8, 2025,
17 when Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal
18 memorandum explaining that the agency had 'revisited its legal position.' See *id.* In contrast, the
19 resumed application of decades of agency practice will satisfy the Government's interest in
20 enforcement of the immigration laws as applied to Mr. Cetinkaya.

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23 38. In Mr. Cetinkaya's case, all three Mathews factors weigh heavily in favor of holding that
24 the Respondents' refusal to provide him any process whatsoever violates his right to procedural
25 due process. The Court should grant the Petition for a Writ of Habeas Corpus for this reason as
26 well.

IX. PRAYER FOR RELIEF

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

- a) Assume jurisdiction over this matter;
- b) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- c) Declare that his detention by Respondents under 8 U.S.C. § 1225(b) is unlawful under the Immigration and Nationality Act, and in violation of the Due Process Clause of the Fifth Amendment;
- d) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, alternatively, order that a neutral and impartial adjudicator conduct a bond hearing pursuant to 8 U.S.C. § 1226(a); enjoin Respondents from transferring him outside of this district; and
- e) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Utku Galip Akcok
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Dated: March 6, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Ercan Cetinkaya, 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 6th day of March 2026.

/s/ Utku Galip Akcok
Utku Galip Akcok