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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA

9
10 **AYHAN GUMUSTEKIN,**



11
12 Petitioner,

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.

Case No.: '26CV1633 CAB MMP

**PETITION FOR WRIT
OF HABEAS CORPUS**

I. INTRODUCTION

1 1. Petitioner Ayhan Gumustekin, a native and citizen of Turkiye, petitions this Court for
2 a 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. Gumustekin
5 challenges Respondents' assertion that he is subject to mandatory detention under 8 U.S.C. §
6 1225(b).

7
8 2. Mr. Gumustekin was previously arrested inside the United States, served with a
9 Notice to Appear, placed in removal proceedings under Section 240 of the Immigration and
10 Nationality Act ("INA"), and released after four days of detention without a bond. Despite his
11 prior release and full compliance with all reporting obligations, Respondents have re-detained
12 him and are treating him as subject to mandatory detention without bond eligibility.

13
14 3. Mr. Gumustekin was arrested by ICE while he was attending his traffic ticket hearing
15 inside the United States, not at a port of entry, and was placed in removal proceedings before
16 the Immigration Court. He has a pending Form I-589 Application for Asylum and for
17 Withholding of Removal.

18
19 4. Mr. Gumustekin's continued detention without an individualized custody
20 determination violates the Immigration and Nationality Act and the Due Process Clause of the
21 Fifth 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. Gumustekin 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. Gumustekin 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. Gumustekin has not been provided a constitutionally adequate individualized custody determination following his re-detention, despite having previously been released without a bond and having complied with all conditions of release.

8. 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.

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

1 detention policies); *Laing v. Ashcroft*, 370 F.3d 994, 1000-01 (9th Cir. 2004) (noting that
2 prudential exhaustion may be waived where administrative remedies are inadequate or
3 futile).

4 10. Here, exhaustion is both futile and inapplicable. Respondents assert that Mr.
5 Gumustekin is subject to mandatory detention under 8 U.S.C. § 1225(b).

6
7 11. Under the Board of Immigration Appeals' recent precedent in *Matter of Yajure*
8 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), an Immigration Judge lacks jurisdiction to
9 redetermine the custody status of an individual detained under § 1225(b). Therefore, any
10 administrative request for a bond hearing before the immigration court would be legally
11 futile, as the Immigration Judge would be bound to deny jurisdiction. Because requesting a
12 bond hearing would be a futile exercise, and because the core issue hinges entirely on the
13 statutory construction of 8 U.S.C. §§ 1225 and 1226 as applied to Mr. Gumustekin is
14 currently in Section 240 removal proceedings—he is exempt from any exhaustion
15 requirement.
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17 18 **IV. REQUIREMENTS OF 28 U.S.C. § 2243**

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

25 26 **V. PARTIES**

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28 13. Mr. Gumustekin is detained in the Imperial Regional Adult Detention Facility in
Imperial County, California, which is within the jurisdiction of the United States District

1 for the Southern District of California. He is in the custody and under the direct control of
2 Respondents and their agents.

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4 14. Respondent Warden of the Imperial Regional Adult Detention Facility is sued in
5 his official capacity as the Facility Administrator of the Imperial Regional Adult Detention
6 Facility in Imperial County, California. Respondent Warden of the Imperial Regional
7 Adult Detention Facility has immediate physical custody of Mr. Gumustekin and has the
8 authority to release him.

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

14
15 16. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of
16 U.S. Immigration and Customs Enforcement and supervises and oversees Respondent
17 Brightman.

18
19 17. Respondent Kristi Noem is sued in her official capacity as the Secretary of the
20 Department of Homeland Security. In this capacity, Respondent Kristi Noem is responsible
21 for the implementation and enforcement of the INA and oversees ICE, the component
22 agency directly responsible for Mr. Gumustekin's detention. See 8 U.S.C. § 1103(a).
23 Respondent Kristi Noem is a legal custodian of Petitioner.

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26 18. Respondent Pamela Bondi is sued in her official capacity as the Attorney General
27 of the United States. The Attorney General oversees the Executive Office for Immigration
28 Review and, within the Executive Branch, is the arbiter of all questions of law pertaining to
the Immigration and Nationality Act. See 8 U.S.C. § 1103(a)(1), 1103(g).

VI. STATEMENT OF FACTS

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2 19. Mr. Gumustekin is a native and citizen of Turkiye.

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4 20. On or about July 26, 2024, Mr. Gumustekin arrived in the United States at or near
5 Tecate, California without having been admitted or paroled after inspection by an
6 immigration officer. Mr. Gumustekin was later arrested by immigration authorities inside
7 the United States and placed in immigration detention. See Exhibit A.
8

9
10 21. ICE served Mr. Gumustekin with a Notice to Appear (NTA) dated July 30, 2024,
11 charging him as removable under section 212(a)(6)(A)(i) of the Immigration and
12 Nationality Act, as an alien present in the United States without being admitted or
13 paroled. See Exhibit B.
14

15 22. On or about February 23, 2026, ICE officers apprehended Mr. Gumustekin in
16 California while he was leaving the court for his traffic ticket. He was not arrested at or
17 near the border. At the time, he had a pending asylum application, no criminal history,
18 and was residing and working within the interior of the United States. ICE took him into
19 custody without providing any individualized justification and placed him in immigration
20 detention
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23 23. Mr. Gumustekin has an asylum case currently pending before the Immigration
24 Court pursuant to Section 240 of the Immigration and Nationality Act.
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26 **VII. CLAIMS FOR RELIEF**

27 **COUNT ONE**

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

1 24. Mr. Gumustekin incorporates and realleges all factual statements above as if fully
2 set forth here.

3
4 25. Respondents' theory that Mr. Gumustekin is subject to mandatory detention under
5 8 U.S.C. § 1225(b) rests on their mistaken reinterpretation of the Immigration and
6 Nationality Act's detention provisions at 8 U.S.C. §§ 1225(b) and 1226(a). At least
7 four reasons demonstrate the incorrectness of the Respondents' position.

8
9 26. First, the Respondents' reinterpretation of the INA's detention provisions
10 conflicts with the Supreme Court's opinion in *Jennings v. Rodriguez*, 583 U.S. 281
11 (2018). In *Jennings*, the Supreme Court instructed that 8 U.S.C. § 1225(b) "applies
12 primarily to aliens seeking entry into the United States ('applicants for admission' in
13 the language of the statute)." *Id.* at 297. Section 1226, on the other hand, applies to
14 aliens already present in the United States. *Id.* at 303. "Section 1226(a) creates a
15 default rule for those aliens by permitting—but not requiring—the Attorney General
16 to issue warrants for their arrest and pending removal proceedings." *Id.* "Section
17 1226(a) also permits the Attorney General to release those aliens on bond..." *Id.* As
18 applied here, Mr. Gumustekin was apprehended within the interior of the United
19 States and placed in removal proceedings under Section 240 of the INA. Accordingly,
20 the statutory framework described in *Jennings* confirms that detention authority, if any,
21 must arise under § 1226 rather than § 1225(b). Mr. Gumustekin has been in the United
22 States since on or about July 26, 2024. By any measure, he is "already present in
23 the United States." *Jennings*, 583 U.S. at 303. Under these circumstances,
24 *Jennings* instructs that the authority to detain Mr. Gumustekin does not stem from 8
25 U.S.C. § 1225(b). The Respondents' reinterpretation of §§ 1225(b) and 1226(a)
26 conflicts with *Jennings* and must be rejected.
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1 27. Second, it is settled that a "statute should be construed so that effect is given to all
2 its provisions, so that no part will be inoperative or superfluous, void or insignificant."
3 *Hibbs v. 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)
7 to add new categories of noncitizens subject to mandatory detention. See *Laken Riley Act*,
8 Pub. 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
14 need for Congress to amend § 1226(c) to mandate detention for those who both entered
15 without admission and committed certain enumerated crimes. See *Maldonado Bautista*, No.
16 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025); see also *Stone v. I.N.S.*, 514 U.S. 386, 397
17 (1995) ("When Congress acts to amend a statute, we presume it intends its amendment to
18 have real and substantial effect.").

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21 28. Moreover, the Respondents' reinterpretation of the detention provisions would
22 upend decades of practice. Indeed, mandatory detention for all applicants has only been the
23 official policy of the Department of Homeland Security ("DHS") since July 8, 2025, when
24 Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an
25 internal memorandum explaining that the agency had 'revisited its legal position.' See
26 *Maldonado Bautista*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025) (enjoining the policy).
27 In short, past agency practice heavily favors applying § 1226 to noncitizens like Mr.
28 Gumustekin.

1 29. 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.
5 Dec. 216 (BIA 2025). The *Guzman* court held that individuals arrested in the interior are
6 not subject to mandatory detention under § 1225(b)(2) and ordered the petitioner's
7 immediate release. Similarly, in *Camacho v. Hollinshead*, No. 1:25-cv-00593-BLW (D.
8 Idaho Nov. 19, 2025), the court held that applying § 1225(b)(2) to interior arrests defies the
9 statute's plain text and decades of established practice, reaffirming that § 1226(a) is the
10 proper governing statute.
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12 30. 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
15 Court clearly distinguished "applicants for admission" at the border under § 1225 from
16 noncitizens "already present in the United States" under § 1226. *Id.* at 297, 303.
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18 31. 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*
20 *Enters. v. Raimondo*, 603 U.S. 369, 402 (2024), Respondents' reliance on *Yajure Hurtado*
21 to justify Mr. Gumustekin's detention without a bond hearing is legally baseless. Under the
22 governing statutory framework and binding precedent, Mr. Gumustekin's custody must be
23 governed by 8 U.S.C. § 1226(a).
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25 **VIII. COUNT TWO**

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

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4 33. It is settled that the Fifth Amendment's Due Process Clause applies to all "persons"
5 within the United States. See *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Mr. Gumustekin has
6 been in the United States since on or about July 26, 2024. The term "persons" includes
7 foreign nationals such as Mr. Gumustekin. See *id.* It is equally well settled that freedom
8 from confinement is a core liberty interest and violation of that liberty interest raises a
9 colorable substantive due process claim. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 690
10 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *Reno v. Flores*, 507 U.S. 292,
11 301 (1993) (collecting cases); see also *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)
12 (bodily freedom is the "most elemental of liberty interests").

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14 34. As such, Mr. Gumustekin also has a right to procedural due process. Immigration
15 proceedings are civil and they are intended to be "nonpunitive in purpose and effect."
16 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Over a century of Supreme Court precedent
17 instructs that the Fifth Amendment entitles foreign nationals to procedural due process. See
18 *Reno v. Flores*, 507 U.S. 292, 306 (1993) (citing *The Japanese Immigrant Case*, 189 U.S. 86
19 (1903)). A failure to provide any process whatsoever contravenes over a century of Supreme
20 Court precedent interpreting the Due Process Clause as applying to foreign nationals such as
21 Mr. Gumustekin. See, e.g., *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

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24 35. To determine whether civil detention violates a detainee's Fifth Amendment
25 procedural due process rights, courts apply the three-part test articulated in *Mathews v.*
26 *Eldridge*, 424 U.S. 319 (1976). *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).
27 Under that test, courts must weigh (1) 'the private interest that will be affected by the official
28 action'; (2) 'the risk of an erroneous deprivation of such interest through the procedures used,
and the probable value, if any, of additional or substitute procedural safeguards'; and (3) 'the

1 Government's interest, including the function involved and the fiscal and administrative burdens
2 that the additional or substitute procedural requirement would entail.' *Id.* (quoting *Mathews*, 424
3 U.S. at 335).
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6 36. Mr. Gumustekin invokes "the most elemental of liberty interests: the interest in being
7 free from physical detention." *Hernandez*, 872 F.3d at 990 (citing *Hamdi v. Rumsfeld*, 542 U.S.
8 507, 529 (2004)). To be sure, the Respondents' refusal to provide any process whatsoever creates
9 a significant risk that Mr. Gumustekin will be deprived of that interest.
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11 37. The Government's interest in implementing its novel reinterpretation of 8 U.S.C. §
12 1225(b) is minimal. This new approach attempts to upend decades of immigration practice. See
13 *Maldonado Bautista*, No. 5:25-CV-1873. Indeed, mandatory detention for all applicants has only
14 been the official policy of the Department of Homeland Security ("DHS") since July 8, 2025,
15 when Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an
16 internal memorandum explaining that the agency had 'revisited its legal position.' See *id.* In
17 contrast, the resumed application of decades of agency practice will satisfy the Government's
18 interest in enforcement of the immigration laws as applied to Mr. Gumustekin.
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21 38. In Mr. Gumustekin's case, all three *Mathews* factors weigh heavily in favor of holding
22 that the Respondents' refusal to provide him any process whatsoever violates his right to
23 procedural due process. The Court should grant the Petition for a Writ of Habeas Corpus for this
24 reason as well.
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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 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 16, 2026

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

I represent Petitioner, Ayhan Gumustekin, 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 16th day of March 2026.

/s/ Utku Galip Akcok
Utku Galip Akcok

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