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6 **Alejandro Navarro-Gutierrez**

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9 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT

10 Alejandro Navarro-Gutierrez,  
11  
12 Petitioner,  
13  
14 v.  
Director, Otay Mesa Detention Center et al,  
15  
16 Respondents.

Case No. 3:26-cv-01905-AGS-AHG

**PETITIONER'S TRAVERSE TO  
RESPONDENTS' RETURN**

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1 Petitioner Alejandro Navarro-Gutierrez, through counsel, petitions for a writ of habeas  
2 corpus under 28 U.S.C. § 2241 and alleges:

3 **I. INTRODUCTION**

- 4 1. Respondents' Return rests on a flawed premise: that Petitioner is subject to mandatory  
5 detention under 8 U.S.C. § 1226(c), and that he must exhaust administrative remedies  
6 before seeking habeas relief. Neither proposition withstands scrutiny.
- 7 2. Respondents have failed to establish that § 1226(c) applies. Instead, the record reflects  
8 reliance on incomplete, unverified, and legally insufficient criminal allegations—  
9 including an alleged recent arrest for which Respondents concede no records exist.
- 10 3. Because Respondents have not met their burden to justify mandatory detention, and  
11 because exhaustion is prudential and excused under well-established Ninth Circuit law,  
12 the Court should grant the writ and order Petitioner's immediate release.

13 **II. RESPONDENTS FAIL TO ESTABLISH THAT PETITIONER IS SUBJECT**  
14 **TO MANDATORY DETENTION**

- 15 4. Respondents assert that Petitioner is subject to mandatory detention under 8 U.S.C. §  
16 1226(c), but the record does not support that conclusion.
- 17 5. Mandatory detention applies only to specific categories of offenses, including certain  
18 crimes involving moral turpitude, controlled substance violations, aggravated felonies,  
19 and firearm offenses. See 8 U.S.C. § 1226(c)(1). The Government bears the burden of  
20 demonstrating that a particular conviction falls within one of these enumerated  
21 categories. *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999).
- 22 6. Here, Respondents fail to meet that burden. The record does not establish that Petitioner's  
23 prior convictions fall within any § 1226(c) category. To the contrary, the Form I-213  
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1 indicates that at least one cited offense—"violent offense in the presence of a child"—  
2 was dismissed.

3 7. Moreover, Respondents rely on an alleged recent arrest that purportedly led to  
4 Petitioner's ICE custody, yet concede that they "were unable to obtain records regarding  
5 [that] arrest." An unverified arrest, without a conviction or supporting documentation,  
6 cannot serve as a basis for mandatory detention.

7 8. Accordingly, even accepting that Petitioner has prior criminal history, Respondents have  
8 not demonstrated that any such history triggers mandatory detention under § 1226(c).

9 **III. PETITIONER'S DETENTION WITHOUT A LAWFUL STATUTORY BASIS**  
10 **VIOLATES DUE PROCESS**

11 9. Under 28 U.S.C. § 2243, this Court must either grant the writ or issue an Order to Show  
12 Cause "forthwith" unless it appears from the petition that Petitioner is not entitled to  
13 relief.

14 10. Habeas corpus is a fundamental mechanism for testing the legality of executive detention  
15 and provides a swift and imperative remedy for unlawful restraint of liberty.

16 11. Because Respondents have failed to establish that Petitioner is subject to mandatory  
17 detention under 8 U.S.C. § 1226(c), his detention is governed by § 1226(a). Under that  
18 framework, detention is discretionary and must be accompanied by adequate procedural  
19 safeguards to ensure it remains reasonably related to its regulatory purposes. See  
20 *Zadvydas v Davis*, 533 U.S. 678, 690 (2001); *Reno v. Flores*, 507 U.S. 292, 306 (1993).

21 12. Here, Petitioner has been detained without any lawful basis for categorical detention and  
22 without any meaningful process to justify his continued confinement. As alleged in the  
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1 Petition, he has never received an individualized custody determination before a neutral  
2 decisionmaker.

3 13. This absence of process is constitutionally significant. Civil immigration detention cannot  
4 be imposed in a manner that is arbitrary, indefinite, or disconnected from its stated  
5 purposes. *See Zadvydas*, 533 U.S. at 690. Where the Government cannot demonstrate that  
6 detention is authorized under the statute it invokes, continued confinement violates due  
7 process.

8 14. Respondents' attempt to justify detention based on incomplete or unverified criminal  
9 allegations only underscores the arbitrariness of Petitioner's confinement. The  
10 Government's inability to produce records regarding the alleged recent arrest further  
11 demonstrates that detention is not grounded in a reliable or legally sufficient basis.

12 15. Because Respondents have not established a valid statutory basis for mandatory  
13 detention, and because Petitioner remains detained without adequate procedural  
14 safeguards, his continued confinement violates the Due Process Clause of the Fifth  
15 Amendment.

#### 16 **IV. EXHAUSTION IS PRUDENTIAL AND IS EXCUSED**

17 16. Respondents argue that the Petition should be dismissed because Petitioner has not  
18 exhausted administrative remedies. That argument fails because exhaustion in § 2241  
19 proceedings is prudential, not jurisdictional, and is not required where it would be futile  
20 or inadequate.

21 17. The Ninth Circuit has made clear that exhaustion under § 2241 is a judicially created,  
22 prudential doctrine that may be excused in appropriate circumstances. *Castro-Cortez v*  
23 *INS*, 239 F.3d 1037, 1047 (9th Cir. 2001). Courts routinely excuse exhaustion where the  
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1 petitioner raises constitutional claims, presents purely legal questions, or where  
2 administrative remedies are inadequate or futile. See *Laing v. Ashcroft*, 370 F.3d 994,  
3 1000 (9th Cir. 2004).

4 18. All of those circumstances are present here.

5 19. First, exhaustion would be futile. Respondents' position throughout this litigation is that  
6 Petitioner is subject to mandatory detention under § 1226(c). Under that framework,  
7 Immigration Judges routinely decline jurisdiction to conduct bond hearings. Requiring  
8 Petitioner to seek relief from an adjudicator who would likely conclude that no  
9 jurisdiction exists would serve no purpose and would merely delay judicial review.

10 20. Second, the Petition raises a purely legal question: whether Respondents have statutory  
11 authority to detain Petitioner without an individualized custody determination. Resolution  
12 of that issue does not depend on further factual development by the agency and is  
13 properly before this Court.

14 21. Third, the administrative process cannot provide an adequate remedy. Petitioner  
15 challenges the legality of his detention itself—not the outcome of a discretionary custody  
16 determination. The Immigration Court lacks authority to adjudicate constitutional claims  
17 or to invalidate detention that is not authorized by statute.

18 22. Finally, Petitioner continues to suffer irreparable harm in the form of ongoing civil  
19 detention without due process. Habeas corpus exists to provide a “swift and imperative  
20 remedy” for unlawful restraint of liberty. 28 U.S.C. § 2243. Requiring exhaustion here  
21 would prolong detention that lacks a lawful basis and would defeat the purpose of habeas  
22 review.

23 23. Accordingly, exhaustion is excused.

V. CONCLUSION

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2 24. Respondents have failed to establish that Petitioner is subject to mandatory detention  
3 under 8 U.S.C. § 1226(c), and their reliance on incomplete and unverified criminal  
4 allegations underscores the absence of any lawful basis for such detention. Petitioner  
5 remains confined without a valid statutory justification and without adequate procedural  
6 safeguards.

7 25. Because exhaustion is prudential and excused, and because continued detention violates  
8 the Constitution and laws of the United States, the Court should grant the Petition for  
9 Writ of Habeas Corpus and order Petitioner's immediate release.

10 DATED this April 10, 2026.

11  
12 /s/ Jose Torres

Jose Torres

*Counsel for Petitioner*