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10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 Efren Ochoa Vazquez,

14 Petitioner,

15 v.

16 MARKWAYNE MULLIN, Secretary, U.S.
17 Department of Homeland Security; Pamela BONDI,
18 U.S. Attorney General; Todd LYONS, Acting
19 Director, Immigration and Customs Enforcement;
20 JOSEPH FREDEN, Acting Field Office Director,
21 U.S. Immigration & Customs Enforcement (ICE),
22 CHRISTOPHER J. LAROSE, Senior Warden, Otay
23 Mesa Detention Facility; EXECUTIVE OFFICE
24 FOR IMMIGRATION REVIEW; IMMIGRATION
25 AND CUSTOMS ENFORCEMENT; and U.S.
26 DEPARTMENT OF HOMELAND SECURITY,

27 Respondents.
28

Case No. '26CV2037 BAS DEB

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241; VERIFIED
PETITION**

PETITIONER'S A NO. 

I. INTRODUCTION

- 1
2 1. Petitioner Efren Ochoa Vazquez, by and through undersigned counsel,
3 respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28
4 U.S.C. § 2241, together with claims for declaratory and injunctive relief,
5 challenging his continued and unlawful detention by the Department of
6 Homeland Security (“DHS”) and Immigration and Customs Enforcement
7 (“ICE”).
- 8
9 2. Mr. Ochoa Vazquez entered the United States in 2023 and presented himself
10 at the border, where he was processed by immigration authorities.
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12 3. Following his entry, Petitioner timely filed an application for asylum and was
13 placed into removal proceedings under INA § 240.
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15 4. After initiation of proceedings, Petitioner’s case was placed on the **non-**
16 **detained docket**, and he was permitted to remain at liberty while his case
17 proceeded before the immigration court.
- 18
19 5. The immigration court issued a **Notice of Hearing** confirming that Petitioner
20 had an active, pending case scheduled on the non-detained docket, reflecting
21 the government’s determination that he did not require detention while his
22 case progressed.
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24 6. While complying with all requirements of his proceedings and while his case
25 remained pending, ICE abruptly detained Petitioner without prior notice,
26 without any intervening custody determination, and without any meaningful
27 opportunity to be heard.
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7. This detention occurred despite the absence of any identified change in circumstances that would justify revoking Petitioner’s previously granted liberty.

8. Petitioner’s procedural posture—specifically, his placement on the non-detained docket and his scheduled hearing—demonstrates that DHS had already determined that he could safely remain at liberty during the pendency of his case.

9. Despite these facts, DHS has detained Petitioner without affording him any meaningful opportunity for release and without providing any constitutionally adequate custody determination.

10. Petitioner’s continued detention is unlawful for multiple independent reasons. First, the government’s decision to re-detain Petitioner after allowing him to remain at liberty violates due process where it is not preceded by meaningful procedures. Second, the absence of any change in circumstances renders the detention arbitrary. Third, Petitioner has been denied any individualized custody determination. Fourth, Respondents have failed to impose the constitutionally required burden of proof on the government.

11. Federal courts across the country have increasingly recognized that such re-detention practices violate the Fifth Amendment, particularly where a noncitizen with a pending case on the non-detained docket is abruptly taken into custody without explanation or process.

1 12. Immediate judicial intervention is warranted. Petitioner's continued detention
2 serves no legitimate purpose, and every additional day of confinement inflicts
3 irreparable harm.

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5 **II. JURISDICTION**

6 13. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner Efren
7 Ochoa Vazquez is presently in custody under federal authority and challenges
8 the legality and constitutionality of his immigration detention. See 28 U.S.C.
9 §§ 2241(a), 2241(c)(3), 2243; Preiser v. Rodriguez, 411 U.S. 475, 484 (1973).

10 14. Federal courts have long recognized that § 2241 is the proper vehicle to
11 review claims that immigration detention exceeds statutory authority or
12 violates the Constitution. Petitioner's claims fall squarely within that
13 framework, as he challenges the legal basis for his continued confinement and
14 the absence of constitutionally adequate procedures.

15 15. Petitioner does not seek review of any final order of removal. Rather, he
16 challenges only the lawfulness of his present detention and Respondents'
17 assertion that he is subject to mandatory custody and ineligible for release.
18 Such claims lie at the core of habeas review.

19 16. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action
20 arises under the Constitution and laws of the United States, including the
21 Immigration and Nationality Act, the Administrative Procedure Act, and the
22 Due Process Clause of the Fifth Amendment.

23 17. Jurisdiction is further supported by the Administrative Procedure Act, 5
24 U.S.C. § 706, which authorizes courts to set aside agency action that is
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arbitrary, contrary to law, or in excess of statutory authority. DHS’s decision to detain Petitioner without a lawful basis or adequate process constitutes such reviewable action.

18. This case arises against the backdrop of ongoing federal litigation addressing the scope of immigration detention authority. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal. Dec. 18, 2025), the district court held that certain noncitizens who entered without inspection and were not apprehended at the border are detained under INA § 236(a) and are eligible for bond hearings. Although the government appealed and the Ninth Circuit issued a temporary administrative stay on March 6, 2026, that stay does not resolve the merits and does not deprive this Court of jurisdiction to adjudicate Petitioner’s detention challenge.

19. Accordingly, this Court has jurisdiction to determine whether Petitioner’s continued detention is lawful and to grant appropriate habeas relief.

III. VENUE

20. Venue is proper in this District pursuant to **28 U.S.C. § 1391(e)** because Petitioner is detained within this judicial district, and Respondents are officers and employees of the United States acting in their official capacities and operating immigration detention authority within this District.

21. Venue is also proper because Petitioner’s immediate custodian is located within this District, and Petitioner’s confinement occurs here. See *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973).

1 22. Because the unlawful detention challenged in this Petition is occurring within
2 this District, and because the custodial officials responsible for Petitioner's
3 confinement are present here, this Court is the proper and appropriate forum
4 to adjudicate these claims.
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7 **IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**
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9 23. Under 28 U.S.C. § 2241, federal courts may entertain petitions for a writ of
10 habeas corpus on behalf of individuals who are in custody in violation of the
11 Constitution, laws, or treaties of the United States. Petitioner satisfies those
12 requirements. He is presently detained under federal immigration authority,
13 and he alleges that Respondents are holding him under an incorrect statutory
14 framework, in violation of the INA, the APA, federal regulations, and the Due
15 Process Clause.
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17 24. This is therefore a classic habeas case. Petitioner challenges the present fact
18 and legal basis of his confinement. He does not seek an advisory opinion or
19 abstract declaration. He seeks judicial relief from an ongoing deprivation of
20 physical liberty unsupported by lawful detention authority.
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22 25. Section 2243 further requires that a court receiving a habeas petition must act
23 promptly. The statute provides that the court shall "forthwith award the writ or
24 issue an order directing the respondent to show cause why the writ should not
25 be granted," unless it plainly appears that the detainee is not entitled to relief.
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27 26. Congress's instruction that habeas petitions receive expedited treatment
28 reflects the central constitutional importance of personal liberty and the

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historic role of the writ of habeas corpus as a swift judicial remedy against unlawful executive detention.

27. Petitioner satisfies these requirements. He entered the United States in 2023, presented himself to immigration authorities, timely filed an asylum application, and was placed into removal proceedings.

28. His case was assigned to the **non-detained docket**, and he had a pending immigration court hearing as reflected in the Notice of Hearing issued by the immigration court.

29. Despite this procedural posture, DHS re-detained Petitioner without any identified change in circumstances and without providing any meaningful custody process.

30. Nonetheless, DHS continues to detain him as though he were subject to mandatory detention under INA § 235(b), without affording him the protections required under law.

31. Nothing on the face of this Petition suggests that Petitioner is plainly not entitled to relief.

32. Accordingly, under 28 U.S.C. § 2243, this Court should promptly issue an order to show cause.

33. The urgent nature of habeas review is particularly appropriate here because Petitioner remains confined despite having a pending hearing and previously being permitted to remain at liberty.

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V. PARTIES

- 34. Petitioner Efren Ochoa Vazquez is a Mexican national who entered the United States in 2023.
- 35. He presented himself to immigration authorities at the border.
- 36. He timely filed an application for asylum.
- 37. He was placed into removal proceedings under INA § 240.
- 38. Petitioner’s case was assigned to the **non-detained docket**.
- 39. The immigration court issued a **Notice of Hearing**, confirming that his case was pending and scheduled.
- 40. Petitioner complied with all requirements of his immigration proceedings.
- 41. Petitioner was not detained during the pendency of his case.
- 42. While his case was pending, ICE arrested and detained him.
- 43. Petitioner is currently in ICE custody.
- 44. Petitioner had a pending immigration court hearing at the time of his arrest.

VI. RESPONDENTS

- 45. Respondent CHRISTOPHER J. LAROSE is the warden of Otay Mesa Detention Facility and has immediate physical custody over Petitioner. As the local custodian, the Warden is responsible for the day-to-day administration of the detention facility where Petitioner is held. The Warden is sued in his/her official capacity as a representative of the entity exercising direct custody over Petitioner.
- 46. Respondent JOSEPH FREDEN is the Acting Field Office Director of U.S. Immigration and Customs Enforcement (ICE), in San Diego California. ICE is the component of the Department of Homeland Security (DHS) which is responsible

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for detaining and removing noncitizens according to immigration law and oversees custody determinations. Mr. Freden is named in his official capacity. In his official capacity, he is a legal custodian of the petitioner.

47. Respondent MARKWAYNE MULLIN, in his official capacity as the Secretary of the Department of Homeland Security, is the highest-ranking official in DHS. He has ultimate authority over ICE and the enforcement of immigration laws, including detention policy. DHS, under Respondent Noem’s direction, is responsible for the decision to continue Petitioner’s detention and to designate him as subject to mandatory custody. He is sued in his official capacity.

48. Respondent PAMELA BONDI, in her official capacity as the Attorney General of the United States, oversees the U.S. Department of Justice, which includes the Executive Office for Immigration Review (EOIR). EOIR encompasses the nation’s Immigration Courts and the Board of Immigration Appeals (BIA). The Attorney General has ultimate authority over immigration court procedures, including the availability of bond hearings and the interpretation of detention statutes through precedent decisions. Respondent Bondi is sued in her official capacity.

VII. LEGAL FRAMEWORK

49. Federal immigration law authorizes detention under several distinct provisions of the Immigration and Nationality Act (“INA”). Which provision applies is critical because it determines whether an individual may be released on bond, must remain detained, or is entitled to custody review before an Immigration Judge.

1 50. The INA draws a fundamental distinction between noncitizens already present in
2 the United States and those treated as applicants for admission at the threshold of
3 entry. Congress also created separate detention schemes for certain criminal cases
4 and for individuals subject to final orders of removal. *See Jennings v. Rodriguez*,
5 583 U.S. 281, 293–94 (2018).
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7 51. INA § 236(a), 8 U.S.C. § 1226(a), is the default detention authority for
8 noncitizens present in the United States and placed in removal proceedings. It
9 authorizes detention but also permits release on bond or conditional parole.
10 Individuals detained under this provision are generally entitled to seek custody
11 redetermination before an Immigration Judge. *See* 8 C.F.R. §§ 236.1(c)(8),
12 1236.1(d), 1003.19(a).
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14 52. INA § 236(c), 8 U.S.C. § 1226(c), creates a narrow category of mandatory
15 detention for certain noncitizens with specified criminal convictions or terrorism-
16 related conduct. *See Demore v. Kim*, 538 U.S. 510, 517–18 (2003).
17

18 53. INA § 235(b), 8 U.S.C. § 1225(b), governs detention of certain “applicants for
19 admission,” a category historically limited to individuals encountered at or near
20 the border or otherwise seeking entry. *See Jennings*, 583 U.S. at 293.
21

22 54. The statute does not authorize DHS to treat noncitizens who have already been
23 processed, released, and placed into removal proceedings as “applicants for
24 admission” subject to mandatory detention under INA § 235(b).
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26 55. Courts within California have repeatedly held that individuals who have been
27 processed by immigration authorities, placed into removal proceedings, and
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1 released into the United States are detained, if at all, under § 236(a) rather than §
2 235(b):

- 3 • *Beltran v. Noem*, No. 25-cv-2650 LL, 2025 WL 3078837, at *5 (S.D. Cal.
4 Nov. 4, 2025) (“The Court finds the plain text of § 1225(b)(2) does not
5 support Respondents’ contention that it applies to any noncitizen present
6 in the United States who has not been admitted.”).
- 7 • *Lopez v. Warden, Otay Mesa Det. Ctr.*, No. 25-CV-2527-RSH-SBC, 2025 WL
8 3005346, at *4 (S.D. Cal. Oct. 27, 2025) (“The Court concludes that Petitioner
9 is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and
10 that detention is instead governed by § 1226(a).”).
- 11 • *Esquivel-Ipina v. LaRose*, No. 25-CV-2672-JLS (BLM), 2025 WL 2998361, at
12 *5 (S.D. Cal. Oct. 24, 2025) (“Petitioner is not an applicant for admission
13 under § 1225(b) and is entitled to seek release under § 1226(a).”).
- 14 • *Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at
15 *6 (S.D. Cal. Oct. 30, 2025).
- 16 • *Garcia v. Noem*, No. 25-CV-02180-DMS-MMP, 2025 WL 2549431, at *8 (S.D.
17 Cal. Sept. 3, 2025).

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22 56. This issue was directly addressed in *Maldonado Bautista v. Santacruz*, where the
23 district court held that noncitizens placed into removal proceedings and residing
24 in the United States are detained under INA § 236(a), not § 235(b), and are
25 entitled to individualized custody determinations.

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27 57. The government appealed that decision, and the Ninth Circuit issued a temporary
28 administrative stay on March 6, 2026. That stay does not resolve the merits of the

1 detention issue and does not eliminate this Court’s authority to adjudicate
2 individual habeas challenges.

3 58. The Fifth Amendment independently limits immigration detention. The Due
4 Process Clause requires that deprivations of liberty be accompanied by
5 meaningful procedural safeguards. *See Zadvydas v. Davis*, 533 U.S. 678, 690
6 (2001).

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8 59. These protections are especially important in re-detention contexts, where the
9 government seeks to take into custody an individual it previously allowed to
10 remain at liberty.

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12 60. Federal courts have recognized that re-detention without notice, justification, or a
13 pre-deprivation hearing violates due process. *See, e.g., Pablo Sequen v. Albarran*,
14 No. 25-cv-06487-PCP, 2025 WL 2935630, at *5 (N.D. Cal. Oct. 15, 2025);
15 *Salazar v. Casey*, No. 25-cv-2784 JLS (VET), 2025 WL 3063629, at *5 (S.D. Cal.
16 Nov. 3, 2025); *Hyppolite v. Noem*, No. 24-cv-4304 (NRM), 2025 WL 2829511,
17 at *7 (E.D.N.Y. Oct. 6, 2025).

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20 **VIII. FACTS**

21 61. Petitioner entered the United States in 2023 and presented himself to immigration
22 authorities at the border.

23 62. Following his entry, Petitioner timely filed an application for asylum.

24 63. Petitioner was placed into removal proceedings under INA § 240.

25 64. Petitioner’s case was assigned to the **non-detained docket**.

26 65. The immigration court issued a **Notice of Hearing**, confirming that Petitioner had
27 a scheduled hearing while remaining at liberty.
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- 1 66. Petitioner remained in compliance with all court requirements.
- 2 67. Petitioner continued to reside in the community while his case was pending.
- 3 68. At no point prior to his detention did DHS indicate that Petitioner should be taken
- 4 into custody.
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- 6 69. There was no custody redetermination or change in procedural posture.
- 7 70. While his case was pending, Petitioner was arrested by ICE.
- 8 71. Petitioner was taken into custody without advance notice.
- 9 72. Petitioner was not provided a custody determination prior to his detention.
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- 11 73. Petitioner has not been provided a meaningful individualized custody
- 12 determination since his detention.
- 13 74. There has been no showing of any change in circumstances between the time The
- 14 existence of a pending hearing on the non-detained docket reflects that Petitioner
- 15 had been permitted to remain at liberty while his case proceeded.
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- 17 75. Nonetheless, Petitioner remains detained.

18 **IX. FIRST CLAIM FOR RELIEF**

19 **Mr. Ochoa Vazquez's Detention Is in Violation of 8 U.S.C. § 1226(a)**

20 Petitioner incorporates by reference the allegations of fact set forth in the preceding
21 paragraphs:

- 22
- 23 76. Respondents are detaining Petitioner under the theory that he is subject to
- 24 mandatory detention under INA § 235(b).
- 25 77. That classification is legally erroneous. Petitioner entered the United States in
- 26 2023 and presented himself to immigration authorities at the border, after which
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1 he was processed, released, placed into removal proceedings under INA § 240 and
2 released on his own recognizance.

3 78. Following his release, Petitioner timely filed an application for asylum and was
4 placed on the **non-detained docket**, where he remained at liberty while his case
5 proceeded.
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7 79. Federal courts have repeatedly held that INA § 1225(b) does not authorize
8 continued or re-imposed mandatory detention for individuals who have already
9 been processed into removal proceedings and processed, released, and placed into
10 removal proceedings under INA § 240.
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12 80. Instead, individuals in Petitioner’s position—who are in ongoing removal
13 proceedings and physically present in the United States—are governed by INA §
14 1226(a), which authorizes discretionary detention and permits release on bond or
15 conditional parole.
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17 81. Petitioner does not fall within any mandatory detention provision, and
18 Respondents have not identified any statutory basis to treat him as subject to
19 mandatory custody.
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21 82. Petitioner is presently in removal proceedings under INA § 240 and had been
22 permitted to remain at liberty while his case proceeded on the non-detained
23 docket, as confirmed by the **Notice of Hearing issued by the immigration court**.

24 83. Accordingly, Respondents’ continued detention of Petitioner under INA §
25 1225(b) is contrary to the plain language, structure, and purpose of the INA.

26 84. Because DHS lacks statutory authority to detain Petitioner as a mandatory
27 detainee under § 1225(b), his continued custody is unlawful.
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1 85. At minimum, Petitioner must be treated as a detainee under INA § 1226(a)
2 and afforded the custody protections and release process provided under that
3 statute.
4

5 **X. SECOND CLAIM FOR RELIEF**

6 **Violation of the Administrative Procedure Act**

7 *(5 U.S.C. § 706 – Agency Action Not in Accordance with Law, in Excess of Authority,*
8 *and Arbitrary and Capricious)*

9 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:
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11 87. The Administrative Procedure Act requires courts to “hold unlawful and set aside
12 agency action” that is not in accordance with law, exceeds statutory authority, or
13 is arbitrary and capricious. 5 U.S.C. § 706(2)(A)–(C).
14

15 88. DHS’s decision to classify Petitioner as subject to mandatory detention under
16 INA § 1225(b) constitutes final agency action because it determines the legal
17 basis of his detention and deprives him of access to the bond process.
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19 89. That action is not in accordance with law because it misinterprets the detention
20 provisions of the INA and applies § 1225(b) to an individual who has already
21 been processed, released, and placed into removal proceedings.

22 90. The action is in excess of statutory authority because Congress did not authorize
23 DHS to detain noncitizens under § 1225(b) after they have been released into the
24 interior and placed on the non-detained docket.
25

26 91. The action is also arbitrary and capricious because it disregards Petitioner’s actual
27 procedural posture, including his prior release, his compliance with proceedings,
28 and his placement on the non-detained docket.

1 92. The existence of a **Notice of Hearing confirming Petitioner’s pending case**
2 **while at liberty** underscores that DHS had already determined detention was
3 unnecessary.

4 93. DHS’s decision to re-detain Petitioner without any articulated change in
5 circumstances further demonstrates the arbitrary nature of the agency’s action.

6 94. Respondents’ continued application of § 1225(b) to Petitioner therefore violates
7 the APA and must be set aside.

8 95. As a result of that unlawful agency action, Petitioner remains confined without
9 access to the individualized custody process required by law.
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13 **XI. THIRD CLAIM FOR RELIEF**

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15 **Violation of the Fifth Amendment (Due Process Clause)**

16 ***(Unconstitutional Re-Detention Without Individualized Process)***

17 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

18 96. The Fifth Amendment guarantees that no person shall be deprived of liberty
19 without due process of law. This protection applies to noncitizens physically
20 present in the United States. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

21 97. Respondents’ continued detention of Petitioner violates both procedural and
22 substantive due process.
23

24 **a. Procedural Due Process**

25 98. Due process requires that the government provide fair procedures before
26 depriving a person of physical liberty, including a meaningful opportunity to be
27 heard before a neutral decision-maker.
28

1 99. This requirement is especially critical where the government seeks to revoke
2 liberty that it has previously granted.

3 100. Petitioner had an active immigration case on the non-detained docket and
4 was permitted to remain at liberty while his case proceeded.

5 101. The immigration court issued a **Notice of Hearing confirming his**
6 **scheduled appearance**, further demonstrating that Petitioner's liberty had been
7 formally recognized within the removal process.

8 102. Respondents re-detained Petitioner without providing notice, without
9 explaining the basis for his arrest, and without affording any pre-deprivation
10 hearing.

11 103. There has been no showing of any change in circumstances that would
12 justify revoking Petitioner's liberty.

13 104. When the government has already determined that a noncitizen may safely
14 remain at liberty, due process requires meaningful procedures before that liberty
15 can be withdrawn.

16 105. Federal courts across the country have recognized that such re-detention
17 practices violate the Due Process Clause.

18 106. See, e.g.,

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- 20 • Pablo Sequen v. Albarran, No. 25-cv-06487-PCP, 2025 WL 2935630, at *5 (N.D.
21 Cal. Oct. 15, 2025);
 - 22 • Salazar v. Casey, No. 25-cv-2784 JLS (VET), 2025 WL 3063629, at *5 (S.D. Cal.
23 Nov. 3, 2025);
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- 1 • Hyppolite v. Noem, No. 24-cv-4304 (NRM), 2025 WL 2829511, at *7 (E.D.N.Y.
2 Oct. 6, 2025).

3 107. These decisions reflect a growing consensus that the government may not
4 abruptly revoke a noncitizen's liberty without providing basic procedural
5 safeguards.
6

7 108. Here, Petitioner has been denied any meaningful opportunity to contest his
8 detention.
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10 109. The risk of erroneous deprivation is particularly high because Respondents
11 have not identified any individualized basis, such as flight risk or danger, to
12 justify detention.

13 110. Under Mathews v. Eldridge, 424 U.S. 319 (1976), Petitioner's liberty
14 interest is substantial, the risk of error is severe, and the government's interests
15 can be adequately protected through less restrictive means.
16

17 **b. Substantive Due Process**

18 111. Substantive due process prohibits civil detention that is arbitrary,
19 excessive, or not reasonably related to a legitimate governmental purpose.

20 112. Petitioner has complied with all requirements of his immigration
21 proceedings and has a pending asylum application.
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23 113. He has every incentive to appear for his immigration hearings, as
24 evidenced by his compliance and the scheduled hearing reflected in the Notice of
25 Hearing.

26 114. Respondents have made no individualized showing that Petitioner poses a
27 danger to the community or a risk of flight.
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1 115. Detaining Petitioner solely on the basis of a categorical legal theory, and
2 in the absence of any changed circumstances, is arbitrary and constitutionally
3 impermissible.

4 116. The Supreme Court has repeatedly emphasized that liberty is the norm and
5 detention is the carefully limited exception.

6 117. Respondents' conduct violates these fundamental principles.

7 118. By re-detaining Petitioner without lawful authority and without
8 meaningful individualized process, Respondents are violating the Due Process
9 Clause of the Fifth Amendment.

10 119. This Court should order Petitioner's immediate release or, at minimum, a
11 prompt constitutionally adequate custody hearing at which the government bears
12 the burden of proof.

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17 **XII. FOURTH CLAIM FOR RELIEF**

18 **Violation of DHS and EOIR Detention Regulations**

19 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

20 120. DHS and EOIR regulations govern the availability of custody
21 determinations and bond hearings.

22 121. Those regulations reflect the distinction between arriving aliens and
23 individuals detained under INA § 1226.

24 122. Petitioner does not fall within any category that would preclude bond
25 eligibility.

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1 123. By treating Petitioner as subject to mandatory detention and denying access
2 to custody redetermination, Respondents are acting inconsistently with governing
3 regulations. See 8 C.F.R. §§ 236.1, 1236.1, 1003.19.

4 124. Respondents' conduct places Petitioner in custody in violation of both
5 statutory and regulatory law.
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7 125. Habeas relief is warranted on that basis as well.
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11 **XIII. PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- 13 a. Assume jurisdiction over this Petition pursuant to 28 U.S.C. §§ 2241 and 1331;
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15 b. Declare that Petitioner's continued detention is unlawful and violates the
16 Immigration and Nationality Act, the Administrative Procedure Act, applicable
17 federal regulations, and the Due Process Clause of the Fifth Amendment;
18
19 c. Declare that Respondents lack statutory authority to detain Petitioner under INA §
20 235(b), and that Petitioner is detained, if at all, under INA § 236(a);
21
22 d. Declare that Respondents' re-detention of Petitioner, after previously allowing him
23 to remain at liberty on the non-detained docket and while his immigration court
24 hearing was pending as reflected in the Notice of Hearing, without any identified
25 change in circumstances and without providing notice or a pre-deprivation hearing,
26 violates the Due Process Clause of the Fifth Amendment;
27
28 e. Issue a Writ of Habeas Corpus directing Respondents to immediately release
Petitioner from custody under reasonable conditions of supervision, reporting

1 requirements, or other noncustodial conditions, particularly in light of the
2 government's prior determination that Petitioner could safely remain at liberty
3 while his case proceeded on the non-detained docket;

- 4
- 5 f. In the alternative, if the Court declines to order immediate release, order
6 Respondents to provide Petitioner with a prompt and constitutionally adequate
7 custody redetermination hearing within five (5) days, before an Immigration Judge
8 or other neutral decision-maker;
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- 10 g. Order that at any such custody hearing, the burden of proof shall be on the
11 government to demonstrate, by clear and convincing evidence, that Petitioner's
12 continued detention is necessary because he poses a risk of flight or a danger to the
13 community;
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- 15 h. Order that if Respondents fail to provide such a hearing within the time specified,
16 Petitioner shall be immediately released;
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- 18 i. Issue a temporary restraining order and/or preliminary injunction, as necessary,
19 prohibiting Respondents from continuing Petitioner's unlawful detention during the
20 pendency of this action;
- 21
- 22 j. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this
23 Court while this Petition is pending, to preserve this Court's jurisdiction and ability
24 to grant effective relief;
- 25
- 26 k. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access
27 to Justice Act, 28 U.S.C. § 2412, and any other applicable authority;
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- l. Grant such other and further relief as this Court deems just and proper.

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Respectfully submitted on:

Dated: March 31, 2026

/s/ Daniel S. Castaneda
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I, Daniel S. Castaneda, submit this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully submitted on:

Dated: March 31, 2026

/s/ Daniel S. Castaneda
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