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18 Pro Hac Vice application

19 Filed Concurrently

20 **UNITED STATES DISTRICT COURT**
21 **SOUTHERN DISTRICT OF CALIFORNIA**

22 **YASMANY SUAREZ LOPEZ,**

23 Petitioner,

24 v.

SIXTO MARRERO, in his official
capacity as Warden of the Imperial

Regional Detention Facility;

DANIEL A. BRIGHTMAN, in his official
capacity as Field Office Director, ICE San
Diego Field Office;

MARKWAYNE MULLIN, in his
official capacity as Secretary of the
United States Department of Homeland
Security,

Respondents.

Case No. '26CV2077 JES VET

**PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO 28 U.S.C. §
2241**

1 **I. INTRODUCTION**

2 1. Petitioner Yasmany Suarez Lopez seeks a writ of habeas corpus
3 pursuant to 28 U.S.C. § 2241 challenging his ongoing unlawful civil immigration
4 detention in violation of the Constitution and laws of the United States. Although
5 Petitioner has lived in the United States since August 12, 2021, was released into
6 the country on his own recognizance pursuant to Form I-220A, and is actively
7 pursuing lawful status through both a pending application for adjustment of status
8 under the Cuban Adjustment Act and a pending application for asylum,
9 Respondents have detained him without any individualized determination that his
10 confinement is necessary to serve a legitimate regulatory purpose.
11

12 2. Petitioner is not a danger to the community and poses no risk of flight.
13 He has no criminal history, has complied with all conditions imposed upon him
14 since his release, and has been living and working openly in the United States
15 with the government’s authorization. As reflected in the record, Petitioner has
16 maintained valid employment authorization since 2024 in connection with his
17 pending asylum application and was lawfully employed as a commercial truck
18 driver at the time of his arrest. He also possessed a valid California commercial
19 driver’s license and was engaged in lawful interstate employment (Exhibits C, D).
20
21

22 3. On or about March 13, 2026, Petitioner was seized by Immigration
23 and Customs Enforcement officers while parked and resting at a public truck stop
24

1 in Indio, California, during the course of his employment while traveling to
2 Arizona (Exhibit L). He was not operating his vehicle, was not engaged in any
3 unlawful activity, and did not attempt to evade or resist law enforcement. This
4 was Petitioner's first contact with immigration authorities since his release in
5 2021. His arrest and detention were not based on any individualized assessment of
6 flight risk or danger, but instead on a categorical and legally erroneous
7 determination.
8

9 4. Since his arrest, Petitioner has been detained without a bond hearing
10 and without any opportunity to challenge his confinement before a neutral
11 decisionmaker. Such detention violates the Due Process Clause of the Fifth
12 Amendment, which permits civil immigration detention only insofar as it bears a
13 reasonable relation to legitimate governmental purposes such as ensuring
14 appearance or protecting the community. See *Zadvydas v. Davis*, 533 U.S. 678,
15 690 (2001). Where detention is imposed categorically without individualized
16 process, it is arbitrary and unconstitutional.
17

18 5. Respondents' detention of Petitioner also rests on an incorrect legal
19 framework. Petitioner was arrested within the interior of the United States, years
20 after his entry and release, and while living and working openly under government
21 authorization. Under longstanding statutory interpretation, such individuals are
22 governed, at most, by 8 U.S.C. § 1226(a), which requires access to a bond
23
24

1 hearing. See *Demore v. Kim*, 538 U.S. 510, 517 (2003). Respondents have
2 subjected Petitioner to a mandatory detention framework that categorically denies
3 such process is contrary to law.

4 6. Even assuming arguendo that Respondents have correctly classified
5 Petitioner under a mandatory detention statute, his continued detention without
6 any individualized custody determination is unconstitutional as applied. Courts
7 have consistently held that civil detention becomes unlawful when it is not
8 meaningfully tied to its regulatory purposes or when it is imposed without
9 adequate procedural safeguards. See *Jennings v. Rodriguez*, 583 U.S. 281 (2018).
10

11 7. Petitioner is the sole financial provider for his U.S. citizen child, born
12 in January 2026, whose birth is documented in the record (Exhibit F). His
13 continued detention imposes severe and unjustified hardship on his family while
14 serving no lawful purpose. Because Respondents have deprived Petitioner of his
15 liberty without lawful authority and without constitutionally required process, this
16 Court should grant the writ and order his immediate release.
17

18 **II. JURISDICTION**

19 8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3), which
20 authorizes federal courts to grant habeas relief to individuals “in custody in
21 violation of the Constitution or laws or treaties of the United States.” Petitioner is
22
23
24

1 presently detained at the Imperial Regional Adult Detention Facility in California,
2 within the Southern District of California.

3 9. This Court also has federal question jurisdiction under 28 U.S.C. §
4 1331 because this action arises under the Immigration and Nationality Act, 8
5 U.S.C. §§ 1101 et seq., and the Constitution of the United States.
6

7 10. Petitioner is “in custody” for purposes of § 2241. He is detained by
8 U.S. Immigration and Customs Enforcement (“ICE”) and remains physically
9 confined at the Imperial Regional Adult Detention Facility.

10 11. This petition challenges the statutory and constitutional basis for
11 Petitioner’s present detention, including Respondents’ classification of Petitioner
12 under the governing detention framework and their refusal to provide any
13 meaningful custody review. It does not seek review of any removal order, does
14 not challenge removability, and does not request adjudication of any form of
15 immigration relief. Although Respondents have initiated removal proceedings
16 against Petitioner, with a hearing currently scheduled for April 14, 2026, this
17 petition is independent of those proceedings and challenges only the legality of
18 custody.
19
20

21 12. 8 U.S.C. § 1252(a)(5) does not bar jurisdiction. That provision
22 channels review of final orders of removal to the courts of appeals. Petitioner does
23
24

1 not seek review of any final order of removal. He challenges only the legality of
2 his present detention.

3 13. 8 U.S.C. § 1252(b)(9) does not bar jurisdiction. Section 1252(b)(9)
4 does not “sweep in” all claims that can be said to arise from removal proceedings,
5 nor does it operate as a jurisdictional “zipper clause.” The Supreme Court has
6 rejected such an expansive interpretation, explaining that reading the provision to
7 cover all claims would lead to “staggering results” and render certain claims
8 effectively unreviewable. *Jennings v. Rodriguez*, 583 U.S. (2018). Petitioner’s
9 challenge to the legality of his detention is independent of the removal process
10 and therefore falls outside the scope of § 1252(b)(9).
11

12 14. 8 U.S.C. § 1252(g) likewise does not bar jurisdiction. The Supreme
13 Court has made clear that § 1252(g) is a narrow provision applying only to three
14 discrete actions: the decision or action to commence proceedings, adjudicate
15 cases, or execute removal orders. *Reno v. American-Arab Anti-Discrimination*
16 *Comm.*, 525 U.S. 471, 482 (1999). It is not a general jurisdiction-stripping
17 provision covering all claims arising from removal proceedings. Petitioner does
18 not challenge any of those actions. He challenges only the legal basis for his
19 present detention, which falls outside the scope of § 1252(g).
20
21

22 15. 8 U.S.C. § 1226(e) does not strip this Court of jurisdiction. Section
23 1226(e) precludes review only of discretionary judgments regarding detention or
24

1 release. It does not bar challenges to the statutory framework governing detention
2 or to the legality of custody itself. *Jennings v. Rodriguez*, 583 U.S. (2018).

3 Petitioner raises precisely such legal and constitutional challenges.

4 16. Because Petitioner is detained within this District and challenges the
5 legality of that detention under federal law, this Court has jurisdiction to grant
6 habeas relief.
7

8 **III. VENUE**

9 17. Venue is proper in this Court under 28 U.S.C. § 2241(a), which
10 authorizes federal district courts to grant writs of habeas corpus “within their
11 respective jurisdictions.”
12

13 18. In habeas actions challenging present physical confinement, the
14 Supreme Court has established a clear and controlling rule: the petition must be
15 filed in the district of confinement and directed to the petitioner’s immediate
16 custodian. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).

17 19. The proper respondent in such actions is the official with day-to-day
18 control over the petitioner’s detention, typically the warden of the facility where
19 the petitioner is held, because that official is the person with the ability to produce
20 the petitioner before the Court. *Id.* at 434–35.
21
22
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24

1 20. Petitioner is currently detained at the Imperial Regional Adult
2 Detention Facility in Imperial County, California, which lies within the Southern
3 District of California.

4 21. Respondent Sixto Marrero, as Warden of the Imperial Regional Adult
5 Detention Facility, exercises day-to-day control over Petitioner's physical custody
6 and is therefore the proper respondent in this habeas action.
7

8 22. This case presents a "core" habeas challenge to present physical
9 confinement. In such cases, the Supreme Court has reaffirmed a straightforward
10 rule: the petitioner must name his immediate custodian and file in the district of
11 confinement. *Padilla*, 542 U.S. at 435, 442–43. That rule applies without
12 exception here.
13

14 23. Because Petitioner is confined within this District and his immediate
15 custodian is located here, this Court is the proper forum for this action.

16 24. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents
17 are officers of the United States acting in their official capacities, and a substantial
18 part of the events giving rise to this action, including Petitioner's ongoing
19 detention, occur within this District.
20

21 **IV. PARTIES**

22 25. Petitioner Yasmany Suarez-Lopez is a native and citizen of Cuba who
23 is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at
24

1 the Imperial Regional Adult Detention Facility, located at 1328 Sperber Road, El
2 Centro, California 92243. Petitioner has been in ICE custody since March 13,
3 2026, and remains physically confined at that facility.

4 26. Respondent Sixto Marrero is the Warden of the Imperial Regional
5 Adult Detention Facility. He is Petitioner's immediate physical custodian and is
6 the proper respondent in this habeas action because he exercises day-to-day
7 control over Petitioner's confinement. See *Rumsfeld v. Padilla*, 542 U.S. 426,
8 434–35 (2004).

9
10 27. Respondent Daniel A. Brightman, in his or her official capacity as
11 Field Office Director for U.S. Immigration and Customs Enforcement's San
12 Diego Field Office, has authority over detention decisions and policies within this
13 District, including those affecting Petitioner's custody. This Respondent is
14 responsible for the legal framework and determinations under which Petitioner is
15 being detained.

16
17 28. Respondents are sued in their official capacities only.

18
19 **V. EXHAUSTION AND FUTILITY**

20 29. There is no statutory exhaustion requirement applicable to habeas
21 petitions brought under 28 U.S.C. § 2241 challenging present physical custody.
22 Congress did not impose an administrative exhaustion prerequisite for statutory or
23 constitutional detention claims under § 2241.
24

1 30. To the extent exhaustion principles apply in immigration habeas
2 cases, they are prudential rather than jurisdictional. See *Singh v. Napolitano*, 649
3 F.3d 899, 900–01 (9th Cir. 2011).

4 31. Prudential exhaustion applies only to administrative remedies that are
5 actually available and capable of providing meaningful relief. A petitioner is not
6 required to pursue remedies that are inadequate, ineffective, or uncertain in their
7 availability. *Id.*

9 32. No such administrative remedy exists here. Petitioner has not been
10 afforded a bond hearing or any other custody determination, and Respondents
11 have not identified the statutory basis for his detention. Absent a custody
12 determination under 8 U.S.C. § 1226(a), there is no administrative mechanism
13 through which Petitioner can challenge the legality of his detention or seek
14 release.
15

16 33. The absence of any custody process is dispositive. Where the
17 government has failed to provide the very mechanism through which detention
18 may be reviewed, there is nothing for Petitioner to exhaust.

19 34. Even assuming arguendo that some form of administrative process
20 could be invoked, requiring Petitioner to pursue it would be futile. As the Ninth
21 Circuit has recognized, exhaustion is not required where the availability or
22

1 effectiveness of an administrative remedy is uncertain or illusory. See *Singh*, 649
2 F.3d at 900–01 .

3 35. This case presents a pure question of statutory and constitutional law:
4 whether Respondents have authority to detain Petitioner at all, and whether they
5 may do so without providing any custody determination. Such questions are
6 properly resolved in habeas and do not depend on the development of an
7 administrative record.

8
9 36. Because no adequate administrative remedy exists, and any attempt to
10 pursue one would be futile and would only prolong unlawful detention, any
11 prudential exhaustion requirement should be excused.

12 VI. STATEMENT OF FACTS

13 A. Petitioner’s Entry, Release, and Immigration History

14
15 37. Petitioner Yasmany Suarez Lopez is a native and citizen of Cuba who
16 entered the United States on or about August 12, 2021.

17 38. Upon his entry, Petitioner was processed by immigration authorities
18 and released into the United States on his own recognizance pursuant to Form I-
19 220A (Exhibit A).

20
21 39. Since his release, Petitioner has remained continuously present in the
22 United States and has fully complied with all conditions imposed upon him. He
23 has not failed to appear for any required proceeding, has not violated any
24

1 condition of release, and has had no adverse interactions with immigration
2 authorities until his arrest in March 2026.

3 40. Petitioner timely filed an affirmative application for asylum in or
4 around October 2021, which remains pending (Exhibit B).

5
6 41. At the time of filing his asylum application, removal proceedings had
7 not been initiated against Petitioner, and no Notice to Appear had been filed with
8 the immigration court.

9 42. Petitioner has also filed an application for adjustment of status under
10 the Cuban Adjustment Act, which has been pending for an extended period of
11 time (Exhibit E).

12
13 **B. Petitioner's Compliance, Lawful Employment, and Stability**

14 43. Since his release, Petitioner has lived openly and continuously in the
15 United States in reliance on government authorization. He has maintained
16 continuous employment authorization issued by the Department of Homeland
17 Security since 2022, including current authorization valid through November 21,
18 2029 (Exhibit C).

19
20 44. Petitioner has consistently engaged in lawful, full-time employment as
21 a commercial truck driver and has earned income through both wage employment
22 and self-employment. His employment and earnings are documented through
23
24

1 federal income tax records and Forms 1099 submitted with this petition (Exhibit
2 I).

3 45. At the time of his arrest, Petitioner was in full compliance with all
4 applicable legal requirements. He possessed a valid Employment Authorization
5 Document issued by DHS and a valid California commercial driver's license,
6 authorizing him to engage in interstate commercial driving. These documents
7 demonstrate that Petitioner acted in good faith reliance on government
8 authorization (Exhibits C, D).
9

10 46. Petitioner has no criminal history (Exhibit F). He has never been
11 arrested, charged, or convicted of any criminal offense, and his record reflects full
12 compliance with the law.
13

14 **C. Petitioner's Family and Community**

15 47. Petitioner resides with his partner and their U.S. citizen child at a
16 residence in Las Vegas, Nevada. His tenancy is documented through a residential
17 lease agreement listing him as a tenant (Exhibits H, I).

18 48. Petitioner is the sole financial provider for his household and is
19 responsible for rent, utilities, and other essential living expenses, as reflected in
20 household billing and insurance records.
21

22 49. Petitioner's U.S. citizen child was born in January 2026. Petitioner
23 resides with, supports, and provides for his child and the child's mother (Exhibit
24

1 G). His role as a parent and sole provider underscores the significant hardship that
2 his continued detention imposes on his family.

3 **D. Petitioner's Arrest by Immigration Authorities**

4 50. On March 13, 2026, Petitioner was working as a commercial truck
5 driver and traveling from California toward Arizona in the course of his
6 employment.
7

8 51. While parked and resting at a public truck stop in Indio, California,
9 Petitioner was approached by federal immigration officers, including agents of
10 U.S. Customs and Border Protection and/or U.S. Immigration and Customs
11 Enforcement (Exhibit M).
12

13 52. At the time of this encounter, Petitioner was not operating his vehicle, was
14 not engaged in any unlawful activity, and was lawfully present in a public
15 location.

16 53. ICE officers informed Petitioner that he was not permitted to operate a
17 commercial vehicle with his employment authorization and proceeded to take him
18 into custody despite his possession of valid work authorization and a valid
19 commercial driver's license.
20

21 54. Petitioner was served with a Notice to Appear at or after the time of
22 his arrest on March 13, 2026, initiating removal proceedings for the first time.
23
24

1 55. Petitioner did not resist arrest, did not attempt to flee, and fully
2 cooperated with officers. This encounter constituted his first contact with
3 immigration authorities since his release in 2021.

4 **E. Petitioner’s Continued Detention**

5
6 56. Following his detention, Petitioner has remained continuously in
7 custody without transfer. He is currently detained at the Imperial Regional Adult
8 Detention Facility in California (Exhibit L).

9 57. Since his detention, Petitioner has not been provided with a bond
10 hearing before an Immigration Judge, has not received any individualized custody
11 determination, and has not been informed of the statutory basis for his detention.

12
13 58. Petitioner remains detained without any meaningful opportunity to
14 seek release, despite the absence of any evidence that he poses a danger to the
15 community or a risk of flight.

16 **VII. LEGAL FRAMEWORK**

17 **A. Habeas Review of Immigration Detention**

18 59. Federal courts have jurisdiction under 28 U.S.C. § 2241 to determine
19 whether an individual is “in custody in violation of the Constitution or laws or
20 treaties of the United States.” The Supreme Court has repeatedly confirmed that
21 habeas corpus remains available to challenge the statutory and constitutional basis
22
23
24

1 for immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41
2 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003).

3 60. Immigration detention exists only to the extent authorized by
4 Congress. The Executive Branch has no inherent authority to detain noncitizens
5 outside the limits of the Immigration and Nationality Act. See *Demore v. Kim*, 538
6 U.S. 510, 516–17 (2003).

7 61. Federal courts retain authority in habeas proceedings to determine
8 whether the government has invoked the correct statutory basis for detention and
9 whether that statute applies under the facts presented. See *Nielsen v. Preap*, 139 S.
10 Ct. 954, 969 (2019).

11 62. Where detention is imposed under an inapplicable statutory provision,
12 or without the procedural protections required by the governing statute, it is
13 unlawful.
14

15 **B. The Statutory Detention Scheme**

16 63. The Immigration and Nationality Act establishes distinct detention
17 provisions that apply at different stages of the immigration process.
18

19 64. Section 235 of the Act, codified at 8 U.S.C. § 1225, governs the
20 inspection and processing of individuals treated as applicants for admission.
21 Under § 1225(b), certain applicants for admission are subject to mandatory
22 detention during the inspection and admissibility process.
23
24

1 65. Section 236 of the Act, codified at 8 U.S.C. § 1226(a), governs the
2 arrest and detention of noncitizens who are present within the United States and
3 are placed in removal proceedings. Section 1226(a) authorizes detention pending a
4 decision on removal and permits release on bond or conditional parole.

5
6 66. The implementing regulations provide for an individualized custody
7 determination and allow a detained noncitizen to seek a bond redetermination
8 before an Immigration Judge. See 8 C.F.R. §§ 236.1(c)(8), 1003.19(a).

9 67. Section 1226(c) mandates detention without bond for a limited
10 category of noncitizens with specified criminal or terrorism-related grounds. That
11 provision applies only to the narrow categories expressly identified by Congress.

12
13 **C. Distinction Between Applicants for Admission and Noncitizens Present in**
14 **the United States**

15 68. The statutory scheme draws a fundamental distinction between
16 noncitizens treated as applicants for admission and those who are present within
17 the United States.

18 69. A noncitizen who arrives in the United States or is treated as an
19 applicant for admission is subject to the inspection framework of § 1225. See 8
20 U.S.C. § 1225(a)(1).
21
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1 70. By contrast, noncitizens encountered within the interior of the United
2 States and placed into removal proceedings are governed by the arrest-and-
3 detention framework set forth in § 1226(a).

4 71. These provisions operate at different stages of the immigration
5 process and apply to distinct factual circumstances. See *Jennings*, 138 S. Ct. at
6 839–41.
7

8 **D. Limits on Detention Authority and the Importance of Proper Classification**

9 72. The scope of the government’s detention authority depends on
10 correctly identifying the statutory provision that governs the noncitizen’s
11 procedural posture.
12

13 73. Proper classification determines both whether detention is authorized
14 and what procedural protections apply, including the availability of an
15 individualized custody determination.

16 74. Where the government applies a detention provision that does not
17 govern the noncitizen’s circumstances, or detains an individual without providing
18 the process required by the applicable statute, the detention exceeds statutory
19 authority.
20

21 75. Because immigration detention implicates a significant deprivation of
22 liberty, courts do not presume detention authority in the absence of clear statutory
23 authorization.
24

1 76. Detention imposed outside the bounds of the statutory framework
2 established by Congress is unlawful and subject to judicial review through habeas
3 corpus.

4 **VIII. CLAIM ONE**

5 **Detention Not Authorized by Statute (8 U.S.C. § 1226(a))**

6
7 77. Petitioner re-alleges and incorporates by reference the foregoing
8 paragraphs as if fully set forth herein.

9
10 78. The Immigration and Nationality Act authorizes immigration
11 detention only under specific statutory provisions that apply to distinct factual
12 circumstances.

13 79. Section 1225(b)(2)(A) governs the detention of applicants for
14 admission during the inspection and admissibility process at or near the threshold
15 of entry.

16
17 80. Section 1226(a), by contrast, governs the arrest and detention of
18 noncitizens who are present within the United States and are placed into removal
19 proceedings.

20 81. Petitioner was arrested on March 13, 2026, from within the interior of
21 the United States, years after his entry and after his release on an Order of Release
22 on Recognizance.
23
24

1 82. At the time of his arrest, Petitioner was not seeking admission, was
2 not undergoing inspection, and was not at or near a port of entry.

3 83. Petitioner had been living and working in the United States pursuant
4 to a pending asylum application and valid employment authorization.

5 84. Under these circumstances, Petitioner's detention is governed, at
6 most, by 8 U.S.C. § 1226(a).

7 85. Section 1226(a) authorizes detention pending removal proceedings
8 but expressly provides that a noncitizen may be released on bond or conditional
9 parole.
10

11 86. The implementing regulations require an individualized custody
12 determination and provide the right to seek a bond redetermination before an
13 Immigration Judge. See 8 C.F.R. §§ 236.1(c)(8), 1003.19(a).

14 87. Respondents have detained Petitioner without providing any custody
15 determination, without setting bond, and without affording him access to a bond
16 hearing before an Immigration Judge.
17

18 88. Respondents have instead subjected Petitioner to detention without
19 any opportunity for release.
20

21 89. Such detention is consistent only with the mandatory detention
22 scheme of § 1225(b), which does not apply to Petitioner's circumstances.
23
24

1 90. Section 1225(b)(2)(A) does not authorize the re-arrest and mandatory
2 detention of an individual years after entry and release into the United States.

3 91. Even if Petitioner were initially processed under § 1225 at the time of
4 his entry, that provision does not govern his subsequent arrest within the interior
5 following release.
6

7 92. Petitioner was previously processed and released into the United
8 States on an Order of Release on Recognizance (Form I-220A). That release
9 terminated any ongoing inspection or admissibility process under § 1225 and
10 placed Petitioner within the class of individuals present in the United States whose
11 detention, if any, is governed by § 1226. The government may not rely on § 1225
12 to impose mandatory detention years after effectuating such release.
13

14 93. Applying § 1225(b)(2)(A) to Petitioner's present custody would
15 eliminate the statutory distinction Congress created between detention at the
16 threshold of entry and detention of individuals already present in the United
17 States.

18 94. The definitional provision in 8 U.S.C. § 1225(a)(1), which deems
19 certain individuals "applicants for admission," does not expand the scope of
20 detention authority beyond the circumstances governed by § 1225(b).
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1 95. The Supreme Court has emphasized that immigration detention must
2 be grounded in the specific statutory provision that applies to the noncitizen's
3 procedural posture. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018).

4 96. Because Petitioner was arrested within the interior of the United
5 States following release and years of residence, his detention falls within §
6 1226(a), not § 1225(b).

7 97. Respondents' failure to provide the custody process required under §
8 1226(a) renders Petitioner's detention unlawful.

9 98. At a minimum, detention under § 1226(a) requires that Petitioner be
10 afforded a meaningful opportunity to seek release on bond, which Respondents
11 have denied.

12 99. Detention imposed under an inapplicable statutory provision exceeds
13 the authority granted by Congress and is subject to habeas relief.

14
15
16 **IX. CLAIM TWO**

17 **Violation of the Fifth Amendment Due Process Clause (Alternative Claim)**

18 100. Petitioner re-alleges and incorporates by reference the foregoing
19 paragraphs as if fully set forth herein.

20 101. This claim is pleaded in the alternative. Even if Respondents were
21 authorized to detain Petitioner under the Immigration and Nationality Act, the
22
23
24

1 Fifth Amendment prohibits the government from depriving him of liberty without
2 due process of law.

3
4 **A. Civil Immigration Detention Requires Meaningful Procedural Safeguards**

5
6 102. Immigration detention is civil, not punitive, and must bear a
7 reasonable relation to its regulatory purposes. See *Zadvydas v. Davis*, 533 U.S.
8 678, 690 (2001).

9 103. The Fifth Amendment applies to all persons within the United States,
10 including noncitizens, and protects against arbitrary deprivation of liberty. *Id.* at
11 693.

12 104. Civil detention is constitutionally permissible only where it is
13 reasonably related to a legitimate governmental purpose and is accompanied by
14 adequate procedural safeguards. See *Foucha v. Louisiana*, 504 U.S. 71, 79–80
15 (1992).

16
17 105. At a minimum, due process requires a meaningful opportunity to
18 challenge detention before a neutral decisionmaker.

19
20 **B. Categorical Denial of Any Custody Hearing Violates Due Process**

21
22 106. Under Respondents' interpretation of § 1225(b)(2)(A), Petitioner is
23 categorically ineligible for bond solely because he has not been formally admitted.

1 107. Respondents have detained Petitioner since March 13, 2026, without
2 providing any bond hearing, custody redetermination, or equivalent process.

3 108. Petitioner has not received any individualized assessment of whether
4 his continued detention is necessary.

5 109. Instead, Respondents have subjected Petitioner to a regime under
6 which he is categorically denied any opportunity to seek release.
7

8 110. Such categorical detention creates an extreme and unjustified risk of
9 erroneous deprivation of liberty.

10 111. At the time of his arrest, Petitioner:

- 11 a. was not engaged in any criminal conduct,
- 12 b. was not cited for any violation of law, and
- 13 c. was living and working in the United States pursuant to valid
14 employment authorization.
15

16 112. This risk is particularly acute here, where Petitioner has no criminal
17 history, has fully complied with all immigration requirements, and was living and
18 working under government authorization at the time of his arrest. Absent a
19 hearing, there is no mechanism for Petitioner to demonstrate that his detention is
20 unnecessary.
21

22 113. Even if Respondents' statutory classification were correct, the absence
23 of any custody hearing renders Petitioner's continued detention unconstitutional.
24

1 114. This constitutional defect is ongoing. Each day that Petitioner remains
2 detained without any opportunity to seek release compounds the deprivation of
3 liberty and underscores the absence of any meaningful procedural safeguard.

4 115. The Ninth Circuit has recognized that due process requires a
5 meaningful custody hearing in which the government bears the burden of
6 justifying continued detention. See *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th
7 Cir. 2011).

9 116. The complete absence of any custody determination violates these
10 fundamental principles.

11
12 **C. Application of the Mathews Framework Confirms the Due Process**
13 **Violation**

14
15 117. The adequacy of procedural protections is evaluated under the
16 framework set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

17 118. First, Petitioner’s interest in freedom from physical restraint is a
18 fundamental liberty interest.

19 119. Second, the risk of erroneous deprivation is substantial where
20 detention is imposed without any individualized hearing.
21
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1 120. Third, the government's interest does not justify the complete denial
2 of process, particularly where a basic custody hearing would impose minimal
3 administrative burden.

4 121. Under this framework, the absence of any meaningful procedure
5 renders Petitioner's detention constitutionally deficient.
6

7 **D. Continued Detention Without Process Is Arbitrary and Unconstitutional**
8

9 122. Detention that is not accompanied by adequate procedural safeguards
10 becomes arbitrary and violates due process. See *Foucha*, 504 U.S. at 79–80.

11 123. The Supreme Court has cautioned that civil detention cannot be used
12 as a mechanism for unchecked or indefinite confinement. See *Zadvydas*, 533 U.S.
13 at 690–91.
14

15 124. Here, Respondents have deprived Petitioner of liberty without
16 providing any meaningful opportunity to be heard.

17 125. Such detention is constitutionally impermissible.
18

19 **E. Required Remedy**
20

21 126. At a minimum, due process requires that Petitioner be provided a
22 prompt custody hearing before a neutral decisionmaker.
23
24

1 127. At that hearing, the government must bear the burden of justifying
2 continued detention by clear and convincing evidence. See *Singh*, 638 F.3d at
3 1203–05.

4 128. Because Respondents have failed to provide any such process, habeas
5 relief is warranted.
6

7 **X. CLAIM THREE**

8
9 **Ultra Vires and Arbitrary Detention Based on Legal Error**

10
11 129. Petitioner re-alleges and incorporates by reference the foregoing
12 paragraphs as if fully set forth herein.

13 130. Petitioner’s arrest and subsequent detention were initiated based on an
14 assertion by Immigration and Customs Enforcement officers that he was not
15 permitted to operate a commercial vehicle due to his immigration status.

16 131. That assertion is legally incorrect and does not provide a lawful basis
17 for civil immigration arrest or detention under the Immigration and Nationality
18 Act.
19

20 132. At the time of his arrest, Petitioner possessed:

- 21
22 a. a valid, unexpired Employment Authorization Document issued by
23 the Department of Homeland Security (Exhibit C); and
24

1 b. a valid, unexpired California commercial driver's license (Exhibit
2 D).

3
4 133. Petitioner was not cited for any traffic violation, was not charged with
5 any criminal offense, and was not alleged to have engaged in any conduct
6 rendering him removable at the time of his arrest.

7
8 **A. Absence of Any Cognizable Ground of Removability**

9
10 134. The Immigration and Nationality Act defines specific and exclusive
11 grounds under which a noncitizen may be charged as removable. See 8 U.S.C. §§
12 1182, 1227.

13 135. The alleged inability to operate a commercial vehicle under state or
14 federal licensing rules is not among those grounds.

15 136. Respondents have not identified any provision of the Immigration and
16 Nationality Act that renders Petitioner removable based on the conduct alleged at
17 the time of his arrest.

18
19 137. Because removability is the statutory predicate for civil immigration
20 arrest, the absence of any cognizable ground of removability at the time of arrest
21 renders the seizure itself unlawful.

22
23 **B. Lack of Statutory Authority for Civil Immigration Arrest**

1 138. Civil immigration arrests are governed by 8 U.S.C. § 1357(a)(2),
2 which permits a warrantless arrest only where an officer has reason to believe that
3 the individual is removable and is likely to escape before a warrant can be
4 obtained.

5
6 139. An asserted violation of commercial driver licensing rules does not
7 establish removability under the Immigration and Nationality Act.

8 140. Nor does it provide any basis to conclude that Petitioner was likely to
9 evade immigration proceedings, particularly where he had been living openly in
10 the United States for years in compliance with all legal requirements.

11 141. Accordingly, the asserted basis for arrest cannot satisfy the statutory
12 requirements for civil immigration arrest.
13

14 **C. Licensing Regulations Do Not Confer Immigration Enforcement Authority**
15

16 142. Any federal or state regulations governing the issuance or use of
17 commercial driver's licenses relate to licensing eligibility and regulatory
18 compliance.

19 143. Such regulations do not define grounds of removability, do not
20 expand immigration enforcement authority, and do not authorize detention under
21 the Immigration and Nationality Act.
22
23
24

1 144. Even if a licensing issue existed, it would not convert lawful presence
2 or authorized employment into a basis for civil immigration detention.
3

4 **D. Detention Based on Legal Error Is Ultra Vires and Arbitrary**

5 145. The authority to detain must derive from the Immigration and
6 Nationality Act itself, not from unrelated regulatory schemes or legally incorrect
7 assumptions.
8

9 146. Where the government initiates detention based on conduct that is not
10 a violation of immigration law and does not support removability, the resulting
11 detention exceeds the authority conferred by Congress and is ultra vires.
12

13 147. The Fifth Amendment prohibits arbitrary deprivations of liberty,
14 including detention that lacks a valid legal foundation. See *Foucha v. Louisiana*,
15 504 U.S. 71, 79–80 (1992).

16 148. Here, Petitioner was taken into custody based on an asserted legal
17 restriction that does not provide a basis for immigration enforcement, and
18 Respondents have not identified any independent lawful basis for his detention
19 arising from the circumstances of his arrest.
20

21 149. Because Respondents' detention authority depends on a lawful arrest
22 supported by a cognizable ground of removability, the absence of any such basis
23 renders Petitioner's continued detention independently unlawful.
24

1 **E. Unlawful Arrest Cannot Be Cured by Post Hoc Justification**

2
3 150. Where detention is initiated on the basis of a legal error, continued
4 confinement cannot be justified by post hoc invocation of statutory authority.

5 151. The government may not cure an unlawful arrest by subsequently
6 initiating removal proceedings or recharacterizing the basis for detention after the
7 fact.

8 152. Because Petitioner’s custody was initiated without a valid legal
9 foundation, his continued detention is unlawful and must be terminated.
10

11 **XI. REQUEST FOR EXPEDITED CONSIDERATION UNDER 28 U.S.C. §**
12 **2243**

13
14 153. Under 28 U.S.C. § 2243, a court entertaining a habeas petition must
15 “forthwith award the writ or issue an order directing the respondent to show cause
16 why the writ should not be granted,” and must “summarily hear and determine the
17 facts and dispose of the matter as law and justice require.” This provision imposes
18 a mandatory obligation on federal courts to ensure prompt judicial review of
19 challenges to present physical custody.
20

21 154. Petitioner respectfully requests that the Court issue an Order to Show
22 Cause directing Respondents to file a prompt return and that the Court adjudicate
23 this Petition on an expedited basis consistent with § 2243.
24

1 155. Petitioner is currently detained at the Imperial Regional Adult
2 Detention Facility in Imperial County, California. His next immigration court
3 hearing is scheduled for April 14, 2026 (Exhibit B). Petitioner was taken into ICE
4 custody on or about March 13, 2026, and remains detained without any
5 individualized custody determination. Each day of continued detention under an
6 allegedly inapplicable statutory framework constitutes an ongoing unlawful
7 restraint of liberty and materially impairs Petitioner's ability to prepare his case,
8 consult with counsel, and meaningfully participate in removal proceedings.
9

10 156. This Petition presents a discrete and predominantly legal question
11 regarding the scope of Respondents' detention authority. The material facts are
12 not in dispute, and the relevant record is sufficiently developed to permit
13 resolution on the pleadings. No evidentiary hearing is required.
14

15 157. Petitioner has concurrently filed a Motion for Temporary Restraining
16 Order seeking interim relief necessary to preserve the Court's ability to grant
17 effective habeas relief on an expedited basis.
18

19 158. Petitioner respectfully requests that the Court set an expedited briefing
20 schedule sufficient to ensure prompt resolution of this Petition.
21

22 159. To preserve this Court's habeas jurisdiction over Petitioner's
23 immediate custodian and to prevent frustration of judicial review, Petitioner
24 requests that Respondents be ordered to provide notice to the Court and to counsel

1 at least forty-eight (48) hours prior to any transfer of Petitioner outside the
2 Southern District of California during the pendency of this action, absent exigent
3 circumstances.

4 160. Because this case presents a threshold legal challenge to the statutory
5 authority for Petitioner's detention, and because the relevant facts are not
6 materially disputed, expedited consideration is warranted in the interest of justice.
7

8 **XII. PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner respectfully requests that this Court:

10 161. Grant the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. §
11 2241;

12 162. Order Petitioner's immediate release from ICE custody, as his
13 detention is unlawful and not authorized under the Immigration and Nationality
14 Act;

15 163. Declare that Petitioner's detention is not governed by 8 U.S.C. §
16 1225(b)(2)(A) and that, as a matter of law, his custody is governed, if at all, by 8
17 U.S.C. § 1226(a);
18

19 164. Declare that Respondents' detention of Petitioner without an
20 individualized custody determination exceeds their statutory authority and violates
21 the Due Process Clause of the Fifth Amendment;
22
23
24

1 165. Declare that Petitioner's arrest and continued detention, initiated on a
2 legally erroneous and ultra vires basis, are unlawful;

3 166. In the alternative, order Respondents, within three (3) calendar days,
4 to provide Petitioner with a constitutionally adequate and individualized custody
5 hearing before a neutral decisionmaker;
6

7 167. Order that, at any such custody hearing:

8 a. the Government bears the burden of justifying continued detention
9 by clear and convincing evidence;

10 b. the decisionmaker considers Petitioner's ability to pay; and

11 c. alternatives to detention are meaningfully considered;
12

13 168. Order that, if Respondents fail to provide the relief required in
14 Paragraph 161 within the time specified, Petitioner shall be immediately released;

15 169. Order Respondents to provide at least forty-eight (48) hours' notice to
16 the Court and counsel prior to any transfer of Petitioner outside this District
17 during the pendency of this action;

18 170. Order expedited consideration of this Petition pursuant to 28 U.S.C. §
19 2243; and
20

21 171. Grant such other and further relief as the Court deems just and proper.
22
23
24

1 DATED: March 30, 2026

2 *s/Nicolette Glazer*

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16 Las Vegas, Nevada 89193
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18 Fax: (725) 777-0078
19 *Counsel For Petitioner*
20 Pro Hac Vice application
21 Filed Concurrently
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CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2026, I electronically filed the foregoing PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the Office of the United States Attorney for the Southern District of California and to all parties who have appeared in this action.

DATED: April 1, 20206

s/Nicolette Glazer

Nicolette Glazer

EXHIBIT INDEX

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| Exhibit B | Form I-797C, Receipt Notice for Form I-589 (Application for Asylum and Withholding of Removal)..... | 9–12 |
| Exhibit C | Employment Authorization Document (EAD Card), Class C08 (Valid Through November 21, 2029)..... | 13–14 |
| Exhibit D | State Driver’s License (California)..... | 15–16 |
| Exhibit E | Form I-797, Approval Notice for Form I-765 (Employment Authorization Document), Class C08 (Valid Through November 21, 2029)..... | 17–20 |
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| Exhibit G | Miami-Dade Police Department Criminal History Search Result Reflecting No Record (Dated August 25, 2022)..... | 23–24 |
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Exhibit A

Form I-220A, Order of Release on Recognizance (Issued August 15, 2021)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE

File No: 

Name: SUAREZ-LOPEZ, YASHMANY

Date: August 19, 2021

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

- You must report for any hearing or interview as directed by Immigration and Customs Enforcement or the Executive Office for Immigration Review.
- You must surrender for removal from the United States if so ordered.
- You must report in (writing) (person) to Duty officer at See I-831 on 09/07/2021 09:00 as directed.

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

- You must not change your place of residence without first securing written permission from the officer listed above.
- You must not violate any local, State or Federal laws or ordinances.
- You must assist Immigration and Customs Enforcement in obtaining any necessary travel documents.
- Other: *Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.*

If fitted with a U.S. Immigration and Customs Enforcement GPS tracking ankle bracelet, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. Damaging or attempting to damage the GPS tracking ankle bracelet or any of its associated equipment (including, but not limited to, the charging station, batteries, power cords, etc.) may result in your arrest, detention, and prosecution under 18 U.S.C. § 1361 and/or 18 U.S.C. § 641, each punishable by a fine, up to ten years imprisonment, or both.

- See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by Immigration and Customs Enforcement.

TOPETE, CESAR

(Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the Spanish language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

(Signature of ICE Official Serving Order)


(Signature of Alien)

Date

I hereby cancel this order of release because:

- The alien failed to comply with the conditions of release.
- The alien was taken into custody for removal.

(Signature of ICE Official Cancelling Order)

Date

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE
(ADDENDUM)

File No: 

Name: SUAREZ-LOPEZ, YASHMANY

Date: August 15, 2021

- That you do not associate with known gang members, criminal associates, or be associated with any such activity.
- That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.
- That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- That you do not commit any crimes while on this Order of Release on Recognizance.
- That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.
- That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- Any violation of the above conditions will result in revocation of your employment authorization document.
- Any violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted.
- Other:

X


(Signature of Alien)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF RELEASE ON RECOGNIZANCE
(OUT-PROCESSING CHECKLIST)


Sex Offenders

- Probation/Parole Officer Notified
- Registered as sex-offender as required by state statute within 7 days
- Victim/Witness Coordinator Notified
- Victim/Witness Notified
- Written Proof of Counseling

Substance Abusers

- Probation/Parole Officer Notified
- Written Proof of Counseling

All Aliens

- Probation/Parole Officer Notified
- Obtain address where living and telephone number
- Enter into IDENT FINS#: 
- NCIC Check
- Travel Document Application
- Other: _____

| | |
|-------------------------------------|--------------------|
| Completed By | |
| Deportation Officer: ROWE, J9133 | Date 08/15/2021 |

| | |
|---|--------------------|
| Concurrence By | |
| Supervisory Detention and Deportation Officer: TOPETE, CESAR | Date 08/15/2021 |

U.S. Department of Homeland Security

Continuation Page for Form I-220A

| | | |
|--|--------------------------------------|--------------------|
| Alien's Name SUAREZ-LOPEZ, YASMANY | File Number XXXXXXXXXX | Date 08/15/2021 |
| Event No: XXXXXXXXXX | | |

LOCATION OF ICE OFFICE WHICH YOU REPORT TO

2805 SW 145th Ave
Miramar FL 33027
954 843 5800

| | |
|-----------------------------|----------------------------------|
| Signature J9133 ROWE | Title Deportation Officer |
|-----------------------------|----------------------------------|