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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 **RUBEN PALACIOS-LIMA**

Case No.: 3:26-cv-02133-RBM-JLB

11 Petitioner

12 v.

13 **CHRISTOPHER LAROSE**, Senior Warden,
14 Otay Mesa Detention Center, *et al.*,

Judge: Hon. Ruth Bermudez
Montenegro

PETITIONER’S TRAVERSE TO
RESPONDENT’S RETURN

17 **I. Introduction**

18 Petitioner challenges the legality of his continued detention following an interior arrest
19 more than twenty years after his entry into the United States. The Petition presents a narrow
20 threshold question: whether the Department of Homeland Security may detain an individual
21 under INA § 235(b) where that individual was never apprehended at or near the border, was
22 never placed in the inspection or admission process, and lived at liberty in the United States for
23 decades, or whether such detention must instead proceed, if at all, under INA § 236(a) with
24 access to a bond hearing.

25 Petitioner entered the United States without inspection on or about August 2005. He was
26 not encountered by immigration authorities at or near the time of his entry, was not placed in
27 expedited removal or any inspection process, and was never subjected to detention under INA §

1 235. Instead, Petitioner resided and worked in the United States without incident for
2 approximately twenty years. On January 12, 2026, he was arrested by Immigration and Customs
3 Enforcement officers in the interior of the United States and has remained detained since that
4 time without receiving any individualized custody determination.

5 His continued detention rests solely on Respondents' assertion that INA § 235(b) applies,
6 notwithstanding the undisputed fact that Petitioner was never placed in the inspection or
7 admission process governed by that provision. This detention—without lawful authority and
8 without access to a bond hearing—constitutes an ongoing deprivation of his physical liberty.

9 Respondents' Return does not meaningfully answer the question presented. Rather than
10 defending the applicability of § 235(b) to these facts, Respondents acknowledge that courts in
11 this District have repeatedly rejected that position in analogous cases and do not oppose an order
12 directing a bond hearing under INA § 1226(a).

13 That position is insufficient. Courts in this District have consistently held that individuals
14 apprehended in the interior of the United States—particularly those who were never subjected to
15 the inspection process—are not subject to detention under § 235(b), and that continued detention
16 under that provision is unlawful. Respondents identify no intervening authority that would justify
17 a departure from that settled line of decisions.

18 Nor do Respondents provide any individualized justification for Petitioner's continued
19 detention. They do not contend that Petitioner poses a danger to the community or a flight risk,
20 and instead rely solely on a generalized legal position while declining to oppose relief.
21 Respondents therefore fail to satisfy their burden in a habeas proceeding to affirmatively
22 establish any lawful basis for detention.

23 Because Respondents fail to establish that § 235(b) applies, fail to justify continued
24 detention under any lawful framework, and effectively concede that this case is governed by
25 prior decisions of this Court, the Court should grant the Petition for Writ of Habeas Corpus and
26 order Petitioner's immediate release.

1 **II. Respondents Fail to Identify Any Lawful Basis for Detention**

2 In a habeas proceeding challenging the legality of detention, Respondents bear the burden
3 of establishing a valid statutory basis for custody. That burden requires more than conclusory
4 assertions; it requires Respondents to demonstrate that Petitioner’s detention is authorized under
5 the governing statutory framework and supported by the facts of this case. Respondents fail to
6 meet that burden.

7 The Return does not identify any lawful basis for detaining Petitioner under INA §
8 235(b). Respondents assert, in conclusory fashion, that Petitioner is subject to mandatory
9 detention because he was present in the United States without admission or parole. But that
10 assertion does not address the dispositive facts that Petitioner was never encountered by
11 immigration authorities at or near the time of his entry, was never placed in any inspection or
12 admission process, and resided at liberty in the United States for approximately twenty years
13 before being arrested in the interior of the country.

14 Respondents do not explain how the inspection-stage detention framework of § 235(b)
15 can apply to an individual who was never subjected to that process. Nor do they identify any
16 statutory provision authorizing DHS to treat such an individual as an “applicant for admission”
17 decades after entry, in the absence of any inspection or admission proceeding. Instead,
18 Respondents rely on a generalized legal position divorced from the factual posture of this case.

19 Indeed, Respondents do not attempt to defend the application of § 235(b) to these facts.
20 Rather, they acknowledge prior decisions from this District directing bond hearings under §
21 1226(a) in similar cases and do not oppose such relief here. That concession underscores that
22 Respondents cannot establish that § 235(b) provides a lawful basis for detention.

23 Nor do Respondents provide any individualized justification for Petitioner’s continued
24 detention. They do not contend that Petitioner poses a danger to the community or a flight risk,
25 nor do they identify any changed circumstances warranting detention after decades of residence
26 in the United States. The absence of any individualized determination further underscores that
27 Respondents have not established a lawful basis for custody.

1 Because Respondents fail to identify any statutory authority that permits detention under
2 § 235(b) in these circumstances, and fail to justify Petitioner's continued confinement through
3 any individualized assessment, Respondents fail to satisfy their burden to affirmatively establish
4 any lawful basis for detention. The Court should grant the Petition for Writ of Habeas Corpus.

5 **III. This Court Has Already Rejected Respondents' Position in**
6 **Analogous Circumstances**

7 This Court has already considered and rejected the same legal position advanced by
8 Respondents. In *Penagos-Alvarez v. LaRose*, No. 3:26-cv-00865-RBM-MSB (S.D. Cal. Feb. 26,
9 2026), Respondents asserted that the petitioner was subject to mandatory detention under INA §
10 235(b) based on his presence in the United States without admission or parole, while
11 acknowledging that courts in this District had repeatedly rejected that position.

12 The Court rejected Respondents' argument and held that detention under § 235(b) was
13 not authorized under those circumstances. It concluded that the petitioner was instead subject, if
14 at all, to the discretionary detention framework of INA § 236(a), and that his continued detention
15 without adequate procedural safeguards violated the Due Process Clause. Based on that
16 reasoning, the Court granted the petition and ordered the petitioner's immediate release from
17 custody.

18 This case presents an even clearer lack of statutory authority. In *Penagos-Alvarez*,
19 Respondents at least relied on the fact that the petitioner had been apprehended and processed by
20 the Department of Homeland Security at or near the time of entry. Even under those
21 circumstances, this Court rejected the application of INA § 235(b) and ordered immediate
22 release. Here, by contrast, Petitioner was never encountered at the border, was never placed in
23 any inspection or admission process, and was never subject to detention under § 235 at any point.
24 Respondents therefore cannot plausibly rely on the inspection-stage detention framework of §
25 235(b) to justify custody decades after entry.

26 Moreover, as in *Penagos-Alvarez*, Respondents do not meaningfully defend the legality
27 of detention. They do not identify any statutory provision that authorizes detention under §

1 235(b) on these facts, do not provide any individualized justification for continued custody, and
2 instead defer to the Court regarding the appropriate remedy.

3 Respondents identify no intervening authority that would justify a departure from this
4 Court's prior reasoning. Where detention is not authorized under the governing statutory
5 framework and is unsupported by any individualized justification, this Court has already
6 determined that the appropriate remedy is immediate release—not the provision of additional
7 procedures to justify continued custody. The same result is warranted here.

8 **IV. Petitioner's Continued Detention Violates the Due Process Clause**

9 The Fifth Amendment prohibits the government from depriving any person of liberty
10 without due process of law. Freedom from physical restraint lies at the core of the liberty interest
11 protected by the Due Process Clause, and civil immigration detention must bear a reasonable
12 relation to a legitimate governmental purpose and be authorized by law.

13 Here, Petitioner's detention is not merely procedurally deficient—it is unlawful. As set
14 forth above, Respondents have failed to identify any lawful basis for detaining Petitioner under
15 INA § 235(b), and their own Return acknowledges that courts in this District have repeatedly
16 rejected that position under analogous circumstances while declining to oppose relief. Because
17 Petitioner's detention rests on an improper statutory framework and is unsupported by any
18 individualized justification, it cannot be sustained.

19 Petitioner was never encountered by immigration authorities at or near the time of entry,
20 was never placed in any inspection or admission process, and was never subject to detention
21 under INA § 235 at any point. Respondents therefore cannot rely on the inspection-stage
22 detention framework of § 235(b) to justify custody decades after Petitioner's entry into the
23 United States.

24 Respondents do not identify any individualized justification warranting Petitioner's
25 detention. Nor do they provide any opportunity for Petitioner to challenge his continued
26 confinement before a neutral decisionmaker. Detention based solely on an incorrect statutory
27

1 classification, without lawful authority and without process, constitutes an arbitrary deprivation
2 of liberty in violation of the Fifth Amendment.

3 As this Court has already recognized in analogous circumstances, detention without
4 lawful statutory authority and without an individualized justification violates due process. Under
5 these circumstances, continued detention cannot be sustained.

6 Because Respondents lack lawful authority to detain Petitioner and have deprived him of
7 his liberty without due process, his continued detention violates the Fifth Amendment. The
8 appropriate remedy is immediate release.

9 **V. Immediate Release Is the Appropriate Remedy**

10 Where detention lacks statutory authority and results in an ongoing deprivation of liberty,
11 the appropriate remedy is immediate release. Habeas corpus exists to secure release from
12 unlawful custody, not to permit its continuation while the government attempts to cure defects
13 after the fact.

14 As set forth above, Respondents have failed to identify any lawful basis for detaining
15 Petitioner under INA § 235(b), and their Return acknowledges that courts in this District have
16 repeatedly rejected that position under analogous circumstances while declining to oppose relief.
17 Because Petitioner's detention rests on an improper statutory framework and is unsupported by
18 any individualized justification, it cannot be sustained.

19 This Court has already granted habeas relief under similar circumstances where
20 Respondents failed to establish lawful detention authority. Where detention is not authorized
21 under the governing statutory framework, continued custody violates both the INA and the Due
22 Process Clause. Under those circumstances, immediate release—not continued detention pending
23 further proceedings—is the appropriate remedy.

24 Permitting continued detention while Respondents attempt to provide additional process
25 would improperly prolong an unlawful deprivation of liberty. A bond hearing presupposes lawful
26 custody; it does not supply it. Where detention itself is unauthorized, the Constitution does not
27 permit its continuation in order to justify it after the fact.

