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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Jose Francisco Ramirez Barroso,

Petitioner-Plaintiff,

v.

John Cantu, Field Office Director of Phoenix Office
of Detention and Removal, U.S. Immigrations and
Customs Enforcement; U.S. Department of Homeland
Security;

Todd M. Lyons, Acting Director, Immigration and
Customs Enforcement, U.S. Department of Homeland
Security;

Markwayne Mullin, in his Official Capacity,
Secretary, U.S. Department of Homeland Security;
and

Todd Blanche in his Official Capacity, Acting
Attorney General of the United States;

Respondents-Defendants.

Case No.

A-

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Challenge to Unlawful
Incarceration Under Color of
Immigration Detention Statutes;
Request for Declaratory and
Injunctive Relief

INTRODUCTION

1
2 1. Petitioner Jose Francisco Ramirez Barroso ("Mr. Ramirez Barroso" or "Petitioner"),
3 Agency Number  by and through his undersigned counsel, hereby files this Petition
4 for Writ of Habeas Corpus under 28 U.S.C. § 2241, together with a complaint for declaratory and
5 injunctive relief, to challenge his ongoing civil immigration detention by U.S. Immigration and
6 Customs Enforcement ("ICE") at the Eloy Detention Center in Eloy, Arizona.

7 2. Petitioner is a citizen and national of Mexico who first entered the United States on April
8 18, 2005, and has resided continuously in this country for more than twenty years. He was taken
9 into ICE custody on or about July 2, 2025 — immediately upon completing his criminal sentence
10 arising from a DUI conviction — and has been held in civil immigration detention since that
11 date.

12 3. Petitioner's removal is not merely unlikely — it is legally impossible. A timely-filed
13 appeal to the Board of Immigration Appeals ("BIA"), received November 3, 2025, automatically
14 stays the October 3, 2025 removal order by operation of 8 C.F.R. § 1003.6. Petitioner is also
15 believed to hold VAWA deferred action status with U.S. Citizenship and Immigration Services
16 ("USCIS"), grounded in extreme cruelty and battery inflicted upon him by his U.S. citizen
17 spouse, which independently precludes his removal during the deferred action period. Counsel is
18 seeking confirmation of that status through discovery.

19 4. The government's authority to detain a noncitizen in civil immigration custody is tethered
20 to the purpose that justifies detention: ensuring removal. Where removal is not reasonably
21 foreseeable — and here it is legally prohibited — the Supreme Court has held that the
22 government's interest in detention is "weak or nonexistent." *Zadvydas v. Davis*, 533 U.S. 678,
23 703 (2001). Petitioner has now been detained for approximately 278 days with no individualized
24 custody determination and no lawful path to removal. Petitioner seeks his immediate release.

CUSTODY

25
26 5. Mr. Ramirez Barroso is currently in the physical custody of ICE at the Eloy Detention
27 Center, 1705 East Hanna Road, Suite 366, Eloy, Arizona 85131, which is located within the
28 District of Arizona. He is therefore "in custody" of the Department of Homeland Security within

1 the meaning of the federal habeas statute. *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).
2 Because Petitioner is physically detained, he unquestionably satisfies the "in custody"
3 requirement under 28 U.S.C. § 2241(c)(3).

4 JURISDICTION

5 6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal
6 question); 28 U.S.C. § 1651 (the All Writs Act); 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. §
7 2201 (the Declaratory Judgment Act); Article I, § 9, Clause 2 of the United States Constitution
8 (the Suspension Clause); Article III of the United States Constitution; and the common law. Each
9 of these independent jurisdictional bases is addressed in turn below.

10 A. Federal Question Jurisdiction Under 28 U.S.C. § 1331

11 7. This Court has original jurisdiction over "all civil actions arising under the Constitution,
12 laws, or treaties of the United States." 28 U.S.C. § 1331. Petitioner's claims arise directly under
13 the Due Process Clause of the Fifth Amendment to the United States Constitution and under 28
14 U.S.C. § 2241. Federal question jurisdiction provides an independent basis for this Court's
15 authority to hear and adjudicate Petitioner's constitutional claims.

16 B. Habeas Corpus Jurisdiction Under 28 U.S.C. § 2241

17 8. The federal habeas statute confers jurisdiction on district courts to grant the writ to any
18 person held "in custody in violation of the Constitution or laws or treaties of the United States."
19 28 U.S.C. § 2241(c)(3). Habeas corpus under § 2241 is the proper — and constitutionally
20 mandated — mechanism for challenging ongoing unlawful immigration detention. *Zadvydas v.*
21 *Davis*, 533 U.S. 678, 687–88 (2001); *Singh v. Holder*, 638 F.3d 1196, 1200 (9th Cir. 2011).

22 9. Petitioner does not challenge the final order of removal; he challenges the
23 constitutionality of his detention itself — its initiation without any individualized hearing, its
24 continuation without any custody determination, and its maintenance where removal is legally
25 stayed and independently precluded. Section 2241 habeas jurisdiction extends fully to such
26 challenges. *Zadvydas*, 533 U.S. at 687–88; *INS v. St. Cyr*, 533 U.S. 289, 314 (2001).

27 10. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not deprive this Court of
28 authority to hear this petition. Section 1252(a)(2)(B)(ii) limits review of certain discretionary

1 decisions, but does not eliminate habeas review of constitutional challenges to the fact or
2 duration of detention. *Zadvydas*, 533 U.S. at 687–88; *INS v. St. Cyr*, 533 U.S. at 305–08. The
3 Ninth Circuit has consistently held that § 2241 habeas jurisdiction survives IIRIRA's
4 amendments for constitutional challenges to immigration detention. *Singh*, 638 F.3d at 1199–
5 1200; *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 946 (9th Cir. 2008).

6 **C. The Suspension Clause Independently Guarantees Habeas Review**

7 11. Article I, § 9, Clause 2 of the Constitution provides that the Privilege of the Writ of
8 Habeas Corpus shall not be suspended unless in cases of Rebellion or Invasion. This guarantee is
9 constitutional in character and independent of any legislative grant. *Boumediene v. Bush*, 553
10 U.S. 723, 732 (2008); *St. Cyr*, 533 U.S. at 301. No such emergency has been declared. This
11 Court retains independent constitutional authority to entertain Petitioner's claims.

12 **D. All Writs Act Jurisdiction Under 28 U.S.C. § 1651**

13 12. The All Writs Act provides that federal courts "may issue all writs necessary or
14 appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of
15 law." 28 U.S.C. § 1651(a). The All Writs Act supplements this Court's authority to issue orders
16 necessary and appropriate to provide complete relief.

17 **E. Declaratory Judgment Act Jurisdiction Under 28 U.S.C. § 2201**

18 13. An actual, justiciable controversy exists: the government has detained Petitioner for
19 approximately 278 days without a hearing and without any lawful path to removal; the
20 government contends its custody is lawful. Declaratory relief will resolve that controversy. 28
21 U.S.C. § 2201(a).

22 **F. Jurisdiction Is Not Defeated by 8 U.S.C. § 1252**

23 14. First, § 1252(a)(2)(B)(ii) strips review only of discretionary determinations. Petitioner's
24 claims are constitutional challenges to the absence of any individualized determination
25 whatsoever. There is no discretionary decision to strip review of.

26 15. Second, § 1252(a)(2)(D) expressly preserves judicial review of "constitutional claims or
27 questions of law." The claims raised here — that civil detention without any individualized
28

1 review violates due process where removal is legally impossible — are precisely the
2 constitutional claims preserved from stripping. Singh, 638 F.3d at 1202.

3 16. Third, courts must "interpret a statute to avoid serious constitutional questions." St. Cyr,
4 533 U.S. at 299–300. Interpreting § 1252 to eliminate habeas review of detention imposed
5 without any hearing and sustained where removal is legally impossible would raise
6 insurmountable Suspension Clause concerns. The statute must be construed to avoid that result.

7 **G. Exhaustion of Administrative Remedies Does Not Defeat Jurisdiction**

8 17. Exhaustion of administrative remedies is prudential, not jurisdictional, in § 2241 habeas
9 proceedings. Hernandez v. Sessions, 872 F.3d 976, 988 (9th Cir. 2017). Courts may excuse
10 exhaustion when: (1) administrative remedies are inadequate or not efficacious; (2) pursuit
11 would be futile; (3) irreparable injury will result; or (4) the administrative proceedings would be
12 void. Id.

13 18. Exhaustion is excused on two independent grounds. First, it would be futile. The
14 constitutional claims Petitioner raises — that due process prohibits indefinite detention where
15 removal is legally impossible — are beyond the authority of ICE or the Immigration Court to
16 adjudicate. Hernandez v. Sessions, 872 F.3d at 988. The BIA cannot overrule its own precedents
17 on constitutional grounds or order ICE to release a detainee.

18 19. Second, exhaustion would cause irreparable harm. Every additional day of unlawful civil
19 detention constitutes an irreparable injury — loss of physical liberty cannot be remedied
20 retroactively. Hernandez, 872 F.3d at 988. ICE has provided no indication it will reconsider his
21 custody absent court intervention. This Court should proceed directly to the merits.

22 **REQUIREMENTS OF 28 U.S.C. § 2243**

23 20. Pursuant to 28 U.S.C. § 2243, this Court must either grant the writ or issue an order
24 directing Respondents to show cause "forthwith," unless it appears from the face of the petition
25 that Petitioner is not entitled to relief. The Great Writ affords a "swift and imperative remedy in
26 all cases of illegal restraint or confinement." Fay v. Noia, 372 U.S. 391, 400 (1963) (emphasis
27 added); see also Boumediene, 553 U.S. at 745.

21. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243. The Ninth Circuit has cautioned against any action creating the perception "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000). That urgency is acute here: every day Petitioner remains imprisoned where no lawful removal can be executed compounds the constitutional injury.

VENUE

22. Venue is proper in this Court pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(e). Petitioner is physically detained at the Eloy Detention Center in Eloy, Arizona, within the District of Arizona. The Phoenix ICE Field Office, which exercises jurisdiction over Petitioner's custody, operates within this District. The proper respondent — Petitioner's immediate custodian — is located within this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004). There is no real property involved in this action.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

23. For the reasons set forth in Section G of the Jurisdiction section above, exhaustion of administrative remedies is excused. Exhaustion is prudential, not jurisdictional, *Hernandez v. Sessions*, 872 F.3d at 988, and is excused here because: (1) the constitutional claims raised are beyond the administrative forum's authority to adjudicate, rendering exhaustion futile; and (2) requiring Petitioner to exhaust administrative channels while imprisoned where no lawful removal can be executed would compound the constitutional injury and cause irreparable harm.

PARTIES

24. Petitioner Jose Francisco Ramirez Barroso is a citizen and national of Mexico, Alien Registration Number  who first entered the United States on April 18, 2005, and has resided continuously in the United States for more than twenty years. He is currently detained by ICE at the Eloy Detention Center in Eloy, Arizona, within the District of Arizona.

25. Respondent John Cantu is the Field Office Director of the Phoenix Office of Detention and Removal, ICE, and is named in his official capacity. ICE is the component of DHS

1 responsible for detaining and removing noncitizens. In his official capacity, he is the immediate
2 legal custodian of Mr. Ramirez Barroso. *Rumsfeld v. Padilla*, 542 U.S. at 434–35.

3 26. Respondent Todd M. Lyons is the Acting Director of ICE and is named in his official
4 capacity. ICE is responsible for the administration and enforcement of the immigration laws,
5 including custody determinations. In his official capacity as head of ICE, he is the legal
6 custodian of Mr. Ramirez Barroso.

7 27. Respondent Markwayne Mullin is the Secretary of DHS and is named in his official
8 capacity. DHS is the federal agency encompassing ICE, responsible for the administration and
9 enforcement of the INA and all other laws relating to the immigration of noncitizens.

10 Respondent Mullin has responsibility for administration and enforcement of the immigration and
11 naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, Pub. L. No.
12 107-296; see also 8 U.S.C. § 1103(a). Respondent Mullin is the ultimate legal custodian of Mr.
13 Ramirez Barroso.

14 28. Respondent Todd Blanche is the Acting Attorney General of the United States, named in
15 his official capacity. He has the authority to interpret the immigration laws and adjudicate
16 removal cases. The Attorney General delegates this responsibility to the Executive Office for
17 Immigration Review ("EOIR"), which administers the immigration courts and the Board of
18 Immigration Appeals, before which Petitioner's appeal is currently pending.

19 **STATEMENT OF FACTS**

20 **A. Petitioner's Background and Continuous Residence**

21 29. Mr. Ramirez Barroso is a citizen and national of Mexico who first entered the United
22 States on April 18, 2005. He has resided continuously in the United States for more than twenty
23 years.

24 **B. The DUI Arrest and Transfer to ICE Custody**

25 30. On July 17, 2024, Mr. Ramirez Barroso was arrested on a driving under the influence
26 charge, Case No. M0754TR20240079, in Tolleson, Arizona. On September 16, 2024, he pleaded
27 guilty to a class 1 misdemeanor DUI under A.R.S. § 28-1381(A)(1) and was sentenced to ten
28 (10) days in jail, a monetary fine, and mandatory alcohol screening and treatment. Nine (9) days

1 of the jail sentence were suspended pending completion of court-mandated screening. Following
2 the reinstatement of the suspended days upon his failure to complete the screening within the
3 court's prescribed period, Mr. Ramirez Barroso served his full criminal sentence, completing it in
4 or around late June 2025.

5 31. Upon completing his criminal sentence, Mr. Ramirez Barroso was transferred directly
6 from criminal custody into civil immigration detention by ICE. His case was entered into the
7 EOIR system on July 2, 2025 — the date ICE assumed custody.

8 **C. Removal Proceedings and Removal Order**

9 32. Removal proceedings were initiated against Mr. Ramirez Barroso in Immigration Court.
10 On October 3, 2025, an immigration judge at the Eloy Immigration Court issued a final order of
11 removal.

12 33. It is unknown if an individualized custody review has been conducted at any point during
13 his approximately 278 days in detention.

14 **D. The Government's Erroneous Removal and Re-Arrest**

15 34. On or about October 8, 2025 — just five days after the removal order — DHS physically
16 removed Mr. Ramirez Barroso to Mexico. DHS later acknowledged that this removal was
17 executed in error. Whether the error resulted from DHS's failure to recognize the automatic
18 regulatory stay imposed upon the filing of a BIA appeal, the existence of Petitioner's VAWA
19 deferred action status, or another basis Respondents have not disclosed, DHS has confirmed that
20 the removal was wrongful.

21 35. After removing Mr. Ramirez Barroso in error, ICE contacted him directly and
22 acknowledged the mistake. ICE arranged for him to be paroled back into the United States at the
23 border. On or about November 1, 2025, Mr. Ramirez Barroso presented himself at the border as
24 directed by ICE. ICE immediately took him back into civil immigration custody upon his return
25 — where he has remained to the present day.

26 36. At no time prior to Mr. Ramirez Barroso's re-arrest did DHS afford him a hearing,
27 provide written notice of the basis for re-detention, or articulate any change in circumstances.
28 ICE re-arrested him on the sole basis of its own prior error.

E. The Pending BIA Appeal

37. On November 3, 2025, the BIA received a Notice of Appeal from the October 3, 2025 removal order. The BIA's Automated Case Information confirms that the appeal is currently pending. No brief due date has been set for either party as of the date of this filing.

38. By operation of 8 C.F.R. § 1003.6, the filing of a timely Notice of Appeal to the BIA automatically stays execution of a removal order during the pendency of the appeal. Mr. Ramirez Barroso's removal is therefore legally stayed. Removal is not reasonably foreseeable — it is legally prohibited — while this appeal remains pending.

F. VAWA Deferred Action Status

39. Mr. Ramirez Barroso is believed to hold VAWA deferred action status with USCIS. His VAWA eligibility is grounded in extreme cruelty and battery inflicted upon him by his U.S. citizen spouse. If confirmed, this status independently precludes his removal from the United States during the deferred action period. Counsel is actively seeking confirmation through discovery.

40. If VAWA deferred action is confirmed, Respondents are legally precluded from removing Mr. Ramirez Barroso during the deferred action period. The government cannot simultaneously represent that it will not remove a noncitizen and then detain that same person on the basis of an imminent removal that cannot lawfully be executed. *Zadvydas*, 533 U.S. at 690–91.

G. Duration of Detention

41. As of the date of this petition, Mr. Ramirez Barroso has been detained in civil immigration custody for approximately 278 days. This far exceeds the six-month presumptive reasonableness threshold established by the Supreme Court in *Zadvydas*, 533 U.S. at 701. His removal is legally stayed by the pending BIA appeal and independently precluded by his VAWA deferred action status. The government has articulated no individualized basis for continued detention at any point during this period.

LEGAL BACKGROUND

A. Prolonged Civil Immigration Detention Violates Due Process Where Removal Is Not Reasonably Foreseeable

42. Civil immigration detention is constitutionally permissible only when it serves legitimate governmental interests. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Even where detention is authorized by statute, it must be accompanied by adequate procedural protections. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). "Freedom from imprisonment — from government action that makes a person a prisoner — lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

43. The Supreme Court established a six-month presumption of reasonableness for civil immigration detention. After six months, "once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701. Where removal is "a remote possibility," the government's interest in detention is "weak or nonexistent." *Id.* at 703.

44. The Ninth Circuit has extended these protections to the pre-final-order context, holding that prolonged civil detention without adequate procedural protections requires individualized justification. *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 950 (9th Cir. 2008). After six months, "the private interests at stake are profound" and "the risk of an erroneous deprivation of liberty in the absence of a hearing is substantial." *Diouf v. Napolitano*, 634 F.3d 1081, 1091–92 (9th Cir. 2011). Federal habeas jurisdiction to review such detention and order release is firmly established. *Singh v. Holder*, 638 F.3d 1196, 1200–01 (9th Cir. 2011).

45. Under the *Mathews v. Eldridge* balancing test, the process due here is clear. 424 U.S. at 335. The private interest — physical liberty — is "[f]reedom from bodily restraint" that "has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). The risk of erroneous deprivation is extreme: Petitioner has never received any individualized custody review, removal is legally impossible, and the government has never explained the basis for continued confinement. The government's interest in continued detention is at its nadir.

B. The Government May Not Re-Arrest a Noncitizen Without Articulating Changed Circumstances

46. The Supreme Court has long recognized that conditional liberty carries a protected interest for which process is owed before revocation. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Young v. Harper*, 520 U.S. 143 (1997). The Constitution "usually requires some kind of hearing before the State deprives a person of liberty." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).

47. In the immigration context, the BIA has held that ICE may not re-arrest a noncitizen who has been released absent a material change in circumstances. *Matter of Sugay*, 17 I&N Dec. 637 (BIA 1981). The Ninth Circuit has confirmed that only a "material" change justifies re-arrest. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). A noncitizen's liberty interest does not evaporate because the government made a mistake. *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982).

C. The Vacated Rule of *Matter of Yajure Hurtado* Cannot Sustain Continued Detention

48. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA held that immigration judges lack jurisdiction to conduct custody reviews for noncitizens who entered without admission under INA § 235(b)(2)(A). Under this rule, ICE treated detained noncitizens charged under that provision as categorically ineligible for any individualized custody determination.

49. That rule has been judicially vacated. In *Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026), the Central District of California held that *Yajure Hurtado* was based on an identical, incorrect interpretation of the statute and vacated it under the APA, 5 U.S.C. § 706(2)(A), (C). Courts exercise independent judgment in interpreting statutes without deference to agency interpretations. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024). Detention premised on a rule that has been vacated by a federal court is detention without lawful authority.

D. This Court Has Authority to Grant the Writ and Order Immediate Release

50. Where prolonged civil detention violates due process, a federal district court has authority under 28 U.S.C. § 2241 to order the petitioner's immediate release. *Singh v. Holder*, 638 F.3d at 1200–01. The writ of habeas corpus "has always been available to review the legality of Executive detention." *INS v. St. Cyr*, 533 U.S. at 301. It is the "swift and imperative remedy" designed for precisely this circumstance. *Boumediene*, 553 U.S. at 745.

FIRST CAUSE OF ACTION

Substantive Due Process — Prolonged Detention Without Individualized Custody

Determination Where Removal Is Not Reasonably Foreseeable

U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Casas-Castrillon v. DHS*, 535 F.3d 942 (9th Cir. 2008); 28 U.S.C. § 2241

51. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

52. Petitioner has been detained in civil immigration custody for approximately 278 days, far exceeding the Supreme Court's six-month presumptive reasonableness threshold. *Zadvydas*, 533 U.S. at 701.

53. Petitioner's removal is not reasonably foreseeable — it is legally impossible. His BIA appeal automatically stays the removal order by operation of 8 C.F.R. § 1003.6. His VAWA deferred action status, once confirmed, independently precludes removal during the deferred action period. The government's interest in Petitioner's detention is therefore "weak or nonexistent." *Zadvydas*, 533 U.S. at 703.

54. Respondents have never provided Mr. Ramirez Barroso with any individualized custody determination at any point during his approximately 278-day detention. No immigration judge has applied a *Casas*-type analysis to his detention. The government cannot carry any burden of justifying continued detention where removal is not a lawful option.

55. Continued detention under these circumstances violates the Due Process Clause of the Fifth Amendment. Petitioner is entitled to immediate release.

SECOND CAUSE OF ACTION

Procedural Due Process — Unlawful Re-Arrest Without Pre-Deprivation Hearing or Articulation of Changed Circumstances

1 U.S. Const. amend. V; *Morrissey v. Brewer*, 408 U.S. 471 (1972); *Matter of Sugay*, 17 I&N Dec.
2 637 (BIA 1981); 28 U.S.C. § 2241

3 56. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

4 57. Mr. Ramirez Barroso was removed from the United States by DHS in error on or about
5 October 8, 2025. ICE acknowledged this error, arranged for his parole back into the United
6 States, and then immediately re-arrested him into civil immigration custody upon his return on or
7 about November 1, 2025. From the moment of his lawful parole and return, Mr. Ramirez
8 Barroso had a constitutionally protected liberty interest in remaining free from civil confinement
9 absent a hearing. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Johnson v. Williford*, 682 F.2d
10 868, 873 (9th Cir. 1982).

11 58. ICE's re-arrest was not based on any new or changed circumstances warranting re-
12 detention. *Matter of Sugay*, 17 I&N Dec. 637 (BIA 1981); *Saravia v. Sessions*, 280 F. Supp. 3d
13 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th
14 Cir. 2018). ICE provided no pre-deprivation hearing, no written statement of reasons for re-
15 detention, and no opportunity to challenge his re-imprisonment before it was imposed. This
16 violated Petitioner's procedural due process rights.

17 59. Petitioner is entitled to immediate release from the custody imposed in violation of his
18 due process rights.

19 **THIRD CAUSE OF ACTION**

20 **Unlawful Detention Where Removal Is Legally Precluded — VAWA Deferred Action**

21 U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); 28 U.S.C. § 2241

22 60. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

23 61. The government's authority to detain a noncitizen in civil immigration custody is
24 predicated on the existence of a cognizable interest in removing that noncitizen. *Zadvydas*, 533
25 U.S. at 690–91. Where the government itself has represented — through a grant of deferred
26 action — that it will not remove a noncitizen during a defined period, it cannot simultaneously
27 assert a legitimate detention interest based on removal. *Id.*

62. Mr. Ramirez Barroso is believed to hold VAWA deferred action status based on extreme cruelty and battery inflicted upon him by his U.S. citizen spouse. If confirmed, this status independently precludes removal and extinguishes any governmental interest in detention predicated upon it. Petitioner seeks production of his complete A-file and all USCIS records bearing on any VAWA petition or deferred action grant to confirm this status — records solely in Respondents' possession.

63. If VAWA deferred action is confirmed, Petitioner's detention is not merely prolonged — it is categorically unlawful. He must be released immediately.

FOURTH CAUSE OF ACTION

Unlawful Detention Based on Vacated Agency Rule — Misapplication of Matter of Yajure Hurtado

APA, 5 U.S.C. § 706; U.S. Const. amend. V; Maldonado Bautista v. Santacruz Jr., No. 5:25-cv-01873 (C.D. Cal. Feb. 18, 2026); 28 U.S.C. § 2241

64. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

65. Mr. Ramirez Barroso has been detained since on or about July 2, 2025 without any individualized custody determination. To the extent ICE or the immigration court treated Petitioner as categorically ineligible for any custody review on the basis of the now-vacated rule announced in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), that reliance is legally invalid.

66. In Maldonado Bautista v. Santacruz Jr., No. 5:25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026), the Central District of California held that Yajure Hurtado was based on an identical, incorrect interpretation of the statute and vacated it under the APA. *Id.*

67. Mr. Ramirez Barroso is not charged under INA § 235(b)(2)(A) and is not subject to § 235 expedited removal proceedings. [COUNSEL TO CONFIRM: Verify the specific charge of removability in the Notice to Appear — if charged under § 212(a)(6)(A)(i), Petitioner is in § 240 removal proceedings and Yajure Hurtado did not apply on its own terms.] Regardless, the legal predicate of Yajure Hurtado has been judicially vacated and cannot sustain continued detention.

68. Mr. Ramirez Barroso's continued detention without any individualized custody determination — whether due to erroneous reliance on Yajure Hurtado, inaction, or any other reason — constitutes agency action that is arbitrary, capricious, and contrary to law under 5 U.S.C. § 706(2)(A). This Court has authority to order Petitioner's immediate release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Jose Francisco Ramirez Barroso respectfully prays that this Court:

- (a) Assume jurisdiction over this Petition pursuant to 28 U.S.C. § 2241;
- (b) Issue a Temporary Restraining Order immediately (i) preventing Respondents from removing Petitioner from the United States to any country; (ii) preventing Respondents from transferring Petitioner outside the District of Arizona; and (iii) requiring Respondents to show cause why the writ should not be granted;
- (c) Grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release from civil immigration detention;
- (d) Declare that Petitioner's continued civil immigration detention is unlawful under the Fifth Amendment to the United States Constitution and the Administrative Procedure Act;
- (e) Declare that Petitioner's continued civil immigration detention is unlawful under the Fifth Amendment to the United States Constitution and the Administrative Procedure Act;
- (f) Order Respondents to produce within fourteen (14) days the complete immigration A-file of Petitioner and all USCIS records relating to any VAWA petition, VAWA self-petition, deferred action application, or deferred action grant in Petitioner's name;
- (g) Retain jurisdiction to ensure compliance with this Court's orders;
- (h) Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- (i) Grant such other and further relief as the Court deems just and proper.

Dated: April 4, 2026

Respectfully submitted,

/s/ Hillary Walsh
Hillary Walsh
Attorney for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this April 4, 2026, in Phoenix, AZ.

/s/ Hillary Walsh
Hillary Walsh
Attorney for Petitioner