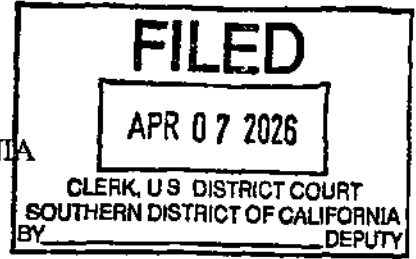


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA



Sergio Antonio Perez Gutierrez,

Petitioner,

V.

Warden, Imperial Regional Detention Facility; Sergio Albarran, Field Office Director; Kristi Noem Secretary, U.S. Department of Homeland Security; Todd Lyons, Acting Ice Director, Pamela Bondi, Attorney General, And DEPARTMENT OF HOMELAND SECURITY
IN THEIR OFFICIAL CAPACITIES

Respondents

Case No. '26CV2176 TWR MMP

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND DECLARTORY AND INJUCTIVE RELIEF FOR AN ORDER TO SHOW CAUSE

INTRODUCTION

This Petition is *not* about whether Petitioner should be removed from the United States and returned to Venezuela. This Petition is *only* about whether Petitioner should be detained while his immigration proceeding is ongoing. For that reason, the Real ID Act of 2005 does not prevent this Court from granting *habeas* relief and ordering Petitioner's release – under such supervision terms as the Court may deem appropriate – while his immigration case continues.

Petitioner has been in the United States since February 2024. Despite his initial entry into the United States without permission, he has maintained a hardworking, honorable life. He has complied with all requirements imposed by immigration authorities and has never been charged with or convicted of any crime that would render him a danger to the community.

On October 30, 2025, while traveling in Galveston, TX, Petitioner was stopped and detained by immigration authorities without a judicial warrant and without probable cause to

believe that he posed a danger to the community or was a flight risk. He was not committing a crime. He was not attempting to evade authorities. He was simply traveling within the United States.

Officers did not provide Petitioner with any written notice, explanation, or opportunity to respond before taking him into custody. No bond hearing was provided. No administrative review preceded his arrest. He was summarily placed in detention and transported to the Imperial Regional Detention Facility in Calexico, CA.

Petitioner's detention is unlawful for several independent reasons. First, his warrantless arrest and detention lacked probable cause and therefore violate the Fourth and Fifth Amendments. Second, his detention is not authorized by the Immigration and Nationality Act because there has been no individualized determination that detention is necessary. Third, detention without a bond hearing violates due process. Finally, his continued confinement bears no reasonable relationship to any legitimate regulatory purpose.

For any or all of these reasons, this Court should grant the Petition and order Respondents to release Petitioner under reasonable conditions of supervision.

REQUIREMENTS OF 28 U.S.C. § 2243 AND

APPLICATION FOR AN ORDER TO SHOW CAUSE

The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order to all Respondents requiring them to show cause why the Petitioner’s Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; 28 U.S.C. § 1331; Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C. § 701; and the Declaratory Judgment Act, 28 U.S.C. § 2201 should not be granted and why Respondents should not be ordered to release Petitioner from detention.

Pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of the Field Office of the Immigration & Customs Enforcement Office of Enforcement and Removal Operations (“ERO”) and this District.

PARTIES

1. Petitioner Sergio Antonio Perez Gutierrez is a resident of Texas having lived there since 2024. He is currently being detained under the direction of Respondents in Imperial Regional Detention Facility, which is located in 1572 Gateway Rd., Calexico, CA 92231.

2. Respondent is the Warden of the Imperial Regional Detention Facility in Calexico, CA. They have ultimate authority over the facility where petitioner is detained. They are the immediate custodian responsible for his physical custody. Respondent is at the address 1572 Gateway Rd., Calexico, CA 92231.
3. Respondent Sergio Albarran is the Field Office Director responsible for the San Diego Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his official capacity.
4. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in Texas, and supervises Respondent Noem; who is legally responsible for pursuing Petitioner's detention and removal; and as such is the legal custodian of Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.
5. Respondent Todd Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations. Respondent's address is Department of Homeland Security, Enforcement and Removal Office, 500 12th St SW, Washington, DC 20536.

6. Respondent, Pamela Bondi, is named in her official capacity as Attorney General of the United States of America, responsible for enforcing Petitioner's continued detention pending his removal proceedings. Bondi's address is 950 Pennsylvania Avenue NW, Washington, D.C. 20530.

JURISDICTION

7. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C. § 701; and for injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201. Petitioner's current detention as enforced by Respondents constitutes a "severe restraint[] on [Petitioner's] individual liberty," such that Petitioner is "in custody in violation of the . . . laws . . . of the United States." *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3)
8. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). The REAL ID Act of 2005, which eliminated habeas corpus jurisdiction over final orders of removal, deportation, and exclusion and consolidated such review in the court of appeals, did not impact the ongoing availability of habeas corpus filed in the district court to challenge the length or conditions of immigration detention. *See H.R. REP. No. 109-72*, at 175 (2005), ("Moreover, section 106 would not preclude habeas review over challenges to detention that are independent of challenges to removal orders. Instead, the bill would eliminate habeas review only over challenges to removal orders.") *reprinted in 2005*

U.S.C.C.A.N. 240, 300; *see Hernandez v Gonzales*, 424 F.3d 42, 42-43 (1st Cir. 2005); *Sissoko v. Rocha*, 412 F.3d 1021, 1033 (9th Cir. 2005); *Kellici v. Gonzales*, 472 F.3d 416 (6th Cir. 2006). This action challenges *Petitioner's detention*, not his removal or deportation.

VENUE

8. The United States District Court of Southern California is the proper venue to resolve petitioner's petition for a writ of Habeas Corpus. Petitioner is physically present within the jurisdiction since he is housed at Imperial Regional Detention Facility in Calexico, CA. He has been there since February 11, 2026, after being detained while traveling by vehicle on his way to California.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Petitioner has no administrative remedies available to challenge the lawfulness of his detention. He is currently in the midst of his asylum proceedings, yet Respondents took him into custody without notice or any opportunity to be heard. Such arbitrary detention constitutes a clear violation of the Due Process Clause, as well as the Fourth and Fifth Amendments, which protect against deprivation of liberty without adequate procedural safeguards.

10. Under *Mathews v Eldridge*, 424 U.S. 319 (1976), courts weigh: (1) the private interest affected; (2) the risk of erroneous deprivation; and (3) the government's interest. Here, the private interest—physical liberty—is fundamental. The risk of erroneous deprivation is exceptionally high because Petitioner was detained without any meaningful hearing or opportunity to contest the detention. The government's interest in ensuring compliance with

immigration proceedings does not justify such an abrupt and unexplained seizure, particularly where no new grounds for detention exist.

11. Moreover, even if there were administrative redress that Petitioner could seek, Petitioner need not exhaust his administrative remedies. The detention statute pursuant to which is detained, 8 U.S.C. § 1231(a), has no exhaustion requirement. Exhaustion is required only when Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In all other instances, “sound judicial discretion governs.” *Id.*

12. This Court also should not require Petitioner to exhaust his administrative remedies. First, the Supreme Court has recognized that courts should not require exhaustion where there is an unreasonable or indefinite timeframe for administrative action. Exhaustion is thus not appropriate where plaintiff “may suffer irreparable harm if unable to secure immediate judicial consideration of [his] claim.” *Id.* at 147. Petitioner has a constitutionally protected liberty interest in his freedom from government custody. *Zadvydas*, 533 U.S. at 690. Petitioner’s unlawful indefinite detention constitutes irreparable harm. *See Seretse-Khama v Ashcroft*, 215 F. Supp.2d 37, 53 (D.D.C. 2002); *Hardy v Fischer* 701 F. Supp. 2d 614, 619 (S.D.N.Y. 2010) (threat of unlawful detention and reimprisonment would constitute quintessential irreparable harm).

13. Second, exhaustion is not required where the Petitioner challenges the constitutionality of the agency procedure itself, “such that the question of the adequacy of the administrative remedy is for all practical purposes identical with the merits of the plaintiff’s lawsuit.” *McCarthy*, 503 U.S. at 148. In this case, Petitioner is challenging the constitutionality of any administrative procedures by which Respondents review the custody status of immigrants in his situation, including the post-order custody review process and those individuals who are

unexpectedly taken into custody after remaining on extended orders of supervision. Thus, exhaustion of administrative remedies is not required.

STATEMENT OF FACTS REGARDING CURRENT DETENTION

14. On October 27, 2025, Petitioner was traveling by vehicle in Galveston, TX. He was not engaged in any unlawful conduct.

15. During that travel, immigration officers detained him without a judicial warrant and without presenting probable cause that he was subject to mandatory detention or that he posed a danger to the community or a flight risk.

16. Petitioner was not provided with a warrant signed by a neutral magistrate, a written explanation of the basis for his arrest, notice of any alleged violation, an opportunity to respond prior to his detention, or a bond hearing following his arrest.

17. In essence, Respondents have failed to follow any procedural mandates in re-detaining petitioner and are continuing to hold him unlawfully in violation of the regulations. *See* 8 C.F.R. §241.13(i)(2) and (i)(3).

CLAIMS FOR RELIEF

18. The Government is holding petitioner in violation of the Due Process Clause of the U.S. Constitution, the Immigration and Nationality Act, and federal regulations. The factual allegations listed above are incorporated into each of the causes of actions listed below.

FIRST CAUSE OF ACTION:

***UNLAWFUL WARRANTLESS ARREST AND DETENTION IN VIOLATION OF THE
FOURTH AND FIFTH AMENDMENTS***

19. The Fourth Amendment applies to civil immigration arrests. A seizure occurs when a reasonable person would not feel free to leave, and such seizures must be reasonable. *INS v. Delgado*, 466 U.S. 210, 215 (1984).

20. Under 8 U.S.C. § 1357(a)(2), immigration officers may conduct a warrantless arrest only when two statutory requirements are satisfied: first, the officer must have reason to believe that the individual is in violation of the immigration laws; and second, the officer must have reason to believe that the individual is likely to escape before a warrant can be obtained. Both elements are mandatory, and the absence of either renders a warrantless arrest unlawful.

21. Respondents detained Petitioner without a judicial warrant and without demonstrating that he was likely to flee before a warrant could be secured. There is no evidence that Petitioner attempted to evade authorities, failed to comply with prior reporting obligations, or engaged in any conduct suggesting imminent escape. To the contrary, Petitioner had complied with prior immigration requirements and appeared as directed.

22. Respondents arrested Petitioner without a judicial warrant despite the absence of any evidence that he posed a flight risk or danger. The statutory language of § 1357(a)(2) clearly requires likelihood of escape. Arresting a compliant individual who had previously appeared as directed demonstrates at minimum reckless disregard for statutory and constitutional limits.

23. Civil immigration detention must remain regulatory—not punitive—and must bear a reasonable relationship to a legitimate governmental objective. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

24. Even where Congress authorizes detention, constitutional limits apply. *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring) (continued detention may become unconstitutional if unreasonable or unjustified).

25. Respondents' actions constitute an unreasonable seizure under the Fourth Amendment and a deprivation of liberty without due process of law under the Fifth Amendment.

SECOND CAUSE OF ACTION:

PROLONGED DETENTION WITHOUT A CONSTITUTIONALLY ADEQUATE BOND HEARING VIOLATES DUE PROCESS

26. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), civil immigration detention is constitutionally permissible only when it is reasonably related to a legitimate government purpose and accompanied by adequate procedural safeguards. When detention becomes prolonged without meaningful review, serious constitutional concerns arise.

27. Petitioner has not received a constitutionally adequate individualized bond hearing before a neutral decision-maker at which the government was required to justify his continued detention. No formal finding has been made that he poses a danger to the community or presents a flight risk. Instead, he remains detained without the procedural protections required when liberty is at stake.

28. The Ninth Circuit has made clear that when detention becomes prolonged, due process requires robust procedural safeguards. In *Singh v. Holder*, 638 F.3d 1196, 1203-05 (9th Cir. 2011), the court held that at a bond hearing for prolonged detention, the government bears

the burden of proving by clear and convincing evidence that continued detention is justified by danger or flight risk.

29. The court emphasized that the private interest in freedom from physical restraint is fundamental and that placing the burden on the detainee creates an unacceptable risk of erroneous deprivation. Clear and convincing evidence is required because civil detention, though not criminal punishment, imposes a severe restraint on liberty.

30. Petitioner has not been afforded such a hearing. The government has not been required to carry its burden. Continued detention without this procedural safeguard violates due process.

31. Although the statutory framework may differ depending on whether detention is under 8 U.S.C. § 1226(a), § 1226(c), or § 1231, constitutional limits apply in all contexts.

32. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court rejected a statutory interpretation requiring periodic bond hearings but explicitly declined to resolve the constitutional due process question. The case was remanded for consideration of constitutional challenges, leaving intact the principle that prolonged detention may violate the Fifth Amendment.

33. The Ninth Circuit has reaffirmed that constitutional challenges to prolonged immigration detention remain viable after *Jennings*. See *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207–10 (9th Cir. 2022).

34. Regardless of the statutory authority under which Respondents claim to detain Petitioner, constitutional due process protections apply. If Petitioner is detained pursuant to 8 U.S.C. § 1226(a), due process requires a meaningful bond hearing at which the government bears

the burden of proving that continued detention is justified. If detention is asserted under 8 U.S.C. § 1226(c), prolonged confinement without an individualized determination of danger or flight risk raises serious constitutional concerns under the Fifth Amendment. And if Petitioner is detained under 8 U.S.C. § 1231, detention must remain reasonably related to effectuating removal and may not become indefinite or punitive, as made clear in *Zadvydas v. Davis*. In any of these circumstances, the Constitution requires meaningful procedural safeguards to ensure that continued detention is not arbitrary or excessive.

36. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate procedural due process claims by balancing three factors: the private interest affected by the government action, the risk of erroneous deprivation under the existing procedures and the probable value of additional safeguards, and the government's interest, including the administrative burden that additional procedures would entail.

37. Applying this framework here, the private interest at stake—physical liberty—is the most fundamental interest protected by the Constitution. The risk of erroneous deprivation is substantial where, as in this case, Petitioner has not received a meaningful individualized hearing at which the government bears the proper burden of proof. Without such procedural safeguards, there is a significant likelihood that an individual may remain detained unnecessarily.

38. By contrast, the government's interests in ensuring appearance at proceedings and protecting the community can be adequately addressed through less restrictive means, including supervised release, reporting requirements, electronic monitoring, or reasonable bond. Balancing these factors compels the conclusion that due process requires, at a minimum, a prompt individualized bond hearing before a neutral decision-maker at which the government must prove by clear and convincing evidence that continued detention is necessary.

39. Civil immigration detention must remain regulatory, not punitive. When detention is prolonged without meaningful procedural safeguards, it ceases to function as a regulatory mechanism and instead operates as punishment without conviction. Such confinement violates substantive due process principles and the core protections of the Fifth Amendment.

THIRD CAUSE OF ACTION:

*DETENTION BEARS NO REASONABLE RELATIONSHIP TO A LEGITIMATE
GOVERNMENT PURPOSE*

40. The Supreme Court has recognized that immigration detention is a severe deprivation of liberty and is civil in nature, permissible only to serve legitimate government interests, such as ensuring a noncitizen's appearance at immigration proceedings or preventing danger to the community. *Zadvydas v Davis*, 533 U.S. 678, 690 (2001) (detention "no longer bears a reasonable relation to the purpose for which the individual was committed" once removal is not reasonably foreseeable).

41. In *Zadvydas*, the Supreme Court held that when detention ceases to reasonably further its civil purposes—here securing removal—the Constitution forbids continued confinement. *Id.* at 690–701. Although *Demore v. Kim*, 538 U.S. 510 (2003), upheld mandatory detention under 8 U.S.C. § 1226(c) for the limited duration of removal proceedings, Justice Kennedy's controlling opinion stressed that an individualized determination may be required where continued detention becomes unreasonable or unjustified.

42. The Ninth Circuit has repeatedly treated freedom from prolonged detention as a fundamental liberty interest requiring due process safeguards. *Diouf v. Napolitano* (*Diouf II*), 634 F.3d 1081, 1091 (9th Cir. 2011) (regulations alone are insufficient at 180 days because they do

not provide adequate procedural safeguards, including an in-person hearing before a neutral arbiter).

43. Similarly, in *Rodriguez v Robbins* and related Ninth Circuit cases, the court held that due process requires individualized custody determinations and periodic bond hearings when detention becomes prolonged, because the private interest in avoiding lengthy confinement is substantial and increases over time. *Rodriguez III*, 804 F.3d 1060, 1087–89 (9th Cir. 2015) (requiring consideration of alternatives to detention).

44. District courts in this Circuit regularly apply the *Mathews v. Eldridge*, 424 U.S. 319 (1976), three-factor balancing test to determine whether due process requires additional procedural protections such as more frequent bond hearings or a government burden of proof. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207–10 (9th Cir. 2022) (analyzing whether due process protects detainees subjected to prolonged detention and procedural deficiencies).

45. The Ninth Circuit has long held that due process includes procedural protections that minimize erroneous deprivations of liberty, such as requiring the government to justify detention by clear and convincing evidence of risk of flight or danger to the community. *Singh v. Holder*, 638 F.3d 1196, 1205–12 (9th Cir. 2011) (due process requires government to bear burden of proof at prolonged-detention bond hearings).

46. While *Jennings v Rodriguez*, 583 U.S. ____ (2018), held that detained noncitizens are not entitled to statutory periodic bond hearings, the decision did not disturb constitutional due process protections applicable in prolonged immigration detention. *Jennings* addresses statutory rights, not constitutional limits on detention without reasonable justification.

PRAYER FOR RELIEF

WHISEFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Enjoin Respondents from transferring the Petitioner outside the jurisdiction of the Court pending the resolution of this case;
- 3) Issue a Writ of Habeas Corpus Ordering Respondents to release Petitioner immediately;
- 4) Declare that Respondent's revocation of Petitioner's order of supervised release was unlawful without a constitutionally adequate, individualized hearing and in violation of the statute and regulations;
- 5) Declare that his continued detention, without cause or justification, is improper as punitive;
- 6) Grant such further relief as the Court deems just and proper.

Respectfully submitted this March 30, 2026.

Sergio A. Flores
218 Westcott St.
Houston, TX 77007

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

I, Sergio Antonio Perez Gutierrez submit this verification. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

This petition is submitted without a handwritten signature due to my current detention.

Dated this March 30, 2026

sergio. A. Perez
Sergio Antonio Perez Gutierrez

3/30/2026
Date

To whom this may concern,

Enclosed please find a copy of the Habeas Corpus Petition filed on behalf of Sergio Antonio Perez Gutierrez. Kindly stamp the enclosed copy as "Filed" and return it to us in the enclosed, pre-labeled envelope.

Thank you very much for your assistance.

This petition is submitted without a handwritten signature due to my current detention.

Dated this March 30, 2026

Typed Name: Sergio Antonio Perez Gutierrez