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5 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
6 **SAN DIEGO**

7 Alvaro Steve ALVAREZ GALLARDO,
Petitioner,

Case No. '26CV2273 DMS JLB

Agency No. 

8 v.

9 Attorney General of the United States,
Department of Justice;

10 Markwayne Mullin, Secretary of
11 Homeland Security;

12 Todd Lyons, Senior Official Performing
the Duties of the Director of U.S.
13 Immigration and Customs Enforcement;

14 Patrick Divver, Field Office Director of
the San Diego Immigration and
15 Customs Enforcement Office;

16 Jorge Velarde, Assistant Field Office
Director of the Immigration and
17 Customs Enforcement, Otay Mesa
Detention Center;

18 Christopher J. LaRose; Senior Warden,
19 Otay Mesa Detention Center;

20 Respondents.
21

**PETITION FOR WRIT OF
HABEAS CORPUS BY A
PERSON IN FEDERAL
CUSTODY UNDER
28 U.S.C. § 2241 AND ORDER TO
SHOW CAUSE**

INTRODUCTION

1. Petitioner, Alvaro Steve Alvarez Gallardo  (hereinafter “Petitioner” or “Alvaro”), a 21-year-old national of El Salvador, has been detained at the Otay Mesa Detention Center, in violation of his due process rights, since his re-detention on March 5, 2026.

2. Alvaro’s first and last entry to the United States was in January 2020, when he was 14 years old. He came to the United States as an accompanied minor, and entered the United States without inspection or admission at or near San Luis, Arizona.

3. Following his entry without inspection or admission he turned himself into immigration authorities and was ultimately detained in the custody of the Office of Refugee Resettlement (“ORR”). He was held at a shelter for unaccompanied minors until his release on February 12, 2020, to the custody of his mother pursuant to 6 U.S.C. § 279 and 8 U.S.C. § 1232.¹ The Department of Homeland Security failed to initiate removal proceedings against him at that time.

4. On February 25, 2026, a judge in the Superior Court of California declared him to be a ward of his maternal aunt and that it is not in his best interest to be returned to El Salvador. Thereafter, he filed a Special Immigrant Juvenile petition with

¹ The ORR release paperwork states he was released pursuant to “pursuant to section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.”

1 U.S. Citizenship and Immigration Services (“USCIS”). That petition remains
2 pending.

3 5. On March 5, 2026, while driving through an immigration checkpoint, Border
4 Patrol officers arrested and detained Alvaro. He remains detained at the Otay
5 Mesa Detention Center in violation of his due process rights because he should
6 not have been re-detained, and even if this Court finds his re-detention lawful, he
7 is eligible for a bond hearing and the immigration court will not award one
8 without an order from this Court.

9 6. Therefore, Petitioner files this petition. Petitioner asks this Court to find that his
10 continued detention violates due process and that he must be released
11 immediately; alternatively, that Petitioner is entitled to consideration for release
12 on bond under 8 U.S.C. § 1226(a); that he may not be transferred during the
13 pendency of this petition; and that this court make an order to show cause.
14 Petitioner requests Respondents be required to provide a response within three
15 days or alternatively timing pursuant to Chief Judge Order No. 144.

16 **JURISDICTION**

17 7. This action arises under the Constitution of the United States and the Immigration
18 and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

19 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
20 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States

1 Constitution (Suspension Clause).

2 9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et*.
3 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs
4 Act, 28 U.S.C. § 1651.

5 10. The provisions in 8 U.S.C. §§ 1252(g) and 1252(b)(9) do not strip this Court of
6 jurisdiction. Petitioner is not contesting the commencement or adjudication of
7 removal proceedings against him, nor is he raising an issue with respect to the
8 execution of removal. Petitioner does challenge his redetention. The petition is
9 independent of the removal proceedings and all questions related to the
10 commencement of removal proceedings or any part of the removal process.
11 “[C]laims that are independent of or collateral to the removal process do not fall
12 within the scope of § 1252(b)(9).” *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th
13 Cir. 2016). Additionally, Section 1252(g) “does not prohibit challenges to
14 unlawful practices merely because they are in some fashion connected to removal
15 orders.” *Ibarra-Perez v. United States*, 154 F.4th 989, 997 (9th Cir. 2025). Thus,
16 this Court is not stripped of jurisdiction by Sections 1252(g) and 1252(b)(9).

17 **VENUE**

18 11. Venue is proper because Petitioner is detained at the Otay Mesa Detention Center
19 in the County of San Diego, which is within the jurisdiction of this District.
20 Further, a substantial part of the events or omissions giving rise to his claims
21

1 occurred in this District (Petitioner was arrested at a Border Patrol checkpoint
2 along the I-8 Freeway in San Diego, California) and no real property is involved in
3 this action. 28 U.S.C. § 1391(e).

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

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

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

15 **PARTIES**

16 ***Petitioner***

17 14. Petitioner, Alvaro, is a national of El Salvador who is in custody at the Otay Mesa
18 Detention Center located at 7488 Calzada De La Fuente, San Diego, CA 92154.
19 When at liberty, he resides in Los Angeles, California, with his legal guardian, his
20 maternal aunt. He is in the custody, and under the direct control, of Respondents
21 and their agents.

1 *Respondents*

2 15. Respondent U.S. Attorney General² is sued in their official capacity as the
3 Attorney General of the United States and the senior official of the U.S.
4 Department of Justice (“DOJ”). In that capacity, they have the authority to
5 adjudicate removal cases and to oversee the Executive Office for Immigration
6 Review (“EOIR”), which administers the immigration courts and the Board of
7 Immigration Appeals. Respondent U.S. Attorney General is a legal custodian of
8 Petitioner.

9 16. Respondent Markwayne Mullin Secretary of U.S. Department of Homeland
10 Security (“DHS”) is sued in their official capacity as the Secretary of the DHS. In
11 this capacity, Respondent Secretary is responsible for the implementation and
12 enforcement of the Immigration and Nationality Act, and oversees U.S.
13 Immigration and Customs Enforcement, the component agency responsible for
14 Petitioner’s detention and custody. Respondent Secretary is a legal custodian of
15 Petitioner.

16 17. Respondent Todd Lyons is sued in his official capacity as the Senior Official
17 Performing the Duties of the Director ICE. Respondent Lyons is the legal
18 custodian of Petitioner.

19
20 ² According to the federal rules, a U.S. government official may be named by official
21 title instead of the official’s name. Fed. R. Civ. P. 17(d). Current U.S. Attorney
General Pamela Bondi’s termination was announced on April 2, 2026.

1 18. Respondent Patrick Divver is sued in his official capacity as the Field Office
2 Director of the San Diego ICE Office. Respondent Divver is a legal custodian of
3 Petitioner and has authority to release him.

4 19. Respondent Jorge Velarde is sued in his official capacity as Assistant Field Office
5 Director of the ICE at the Otay Mesa Detention Center. Respondent Velarde is a
6 legal custodian of Petitioner and has direct authority to release him.

7 20. Respondent Christopher J. LaRose is sued in his official capacity as the Senior
8 Warden, Otay Mesa Detention Center. Respondent LaRose is the direct physical
9 custodian of Petitioner and has direct authority to release him.

10 **STATEMENT OF FACTS**

11 21. Petitioner, Alvaro, a 21-year-old national of El Salvador, has lived in the United
12 States since his last entry without inspection or admission in approximately
13 January 2020, when he was 14 years old. Ex. A, ¶ 4. He has firm roots in the
14 United States. His maternal aunt was appointed as his legal guardian on February
15 25, 2026, and a Superior Court Judge made special immigrant juvenile findings in
16 his case, finding he was abandoned and neglected by both of his parents and that it
17 was not in his best interest to return to El Salvador. Ex. A, ¶ 9. He filed Form I-
18 360, Petition for Special Immigrant Juvenile Status with USCIS on February 27,
19 2026. *Id.* If and when his Form I-360 is approved and his priority date becomes
20 current he will be eligible to apply for lawful permanent residence.

1 22. Alvaro graduated from high school in June 2024. *Id.* ¶ 7.

2 23. According to Alvaro and his records, when he was initially detained in 2020 and
3 subsequently released from ORR custody, he was served a Notice to Appear,
4 which was never filed with an immigration court, thus there was a failure by DHS
5 to prosecute and proceedings did not initiate. *Id.* ¶ 6.

6 24. On March 5, 2026, while Alvaro was driving in San Diego, he encountered a
7 Border Patrol checkpoint along the I-8 freeway. Border Patrol officers stopped
8 him, arrested him without cause, seized his car, and eventually transferred Alvaro
9 to the Otay Mesa Detention Center, where he remains today. *Id.*

10 25. After apprehending Alvaro on or about March 5, 2026, the DHS placed him in
11 removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner
12 as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C.
13 §1182(a)(7)(A)(i)(I), as someone who entered the United States without inspection
14 and is present without admission³. Ex. B.

15 26. Therefore, Alvaro requests this court issue a habeas order requiring his
16 immediate release given the reasoning below, or in the alternative that DHS

17 ³ Counsel's office has contacted the Office for the Principal Legal Advisor via email
18 to address the conflicting information on the NTAs issued to Alvaro because they
19 indicate he is an "arriving alien" on the top of the documents but then in the factual
20 allegations list him as having entered the United States without inspection. Some of
21 the factual information is incorrect as well. Counsel for DHS has confirmed the NTAs
are incorrect, in that Alvaro is not an arriving alien and the factual information
conflicts with that fact, but DHS has no intention to correct the factually and legally
incorrect NTAs. Ex. A, ¶ 13.

1 schedule a lawful bond hearing before a fair, neutral, and open-minded arbiter so
2 that his unlawful detention does not continue.

3 **LEGAL FRAMEWORK**

4 27. The Immigration and Nationality Act (“INA”) prescribes three basic forms of
5 detention for the vast majority of noncitizens in removal proceedings conducted
6 pursuant to 8 U.S.C. § 1229a. The INA provides for mandatory detention of
7 noncitizens subjected to an expedited removal order imposed pursuant to 8 U.S.C.
8 § 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S.
9 who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).

10 28. Immigration detention “has two regulatory goals: ensuring the appearance of
11 [noncitizens] at future immigration proceedings and preventing danger to the
12 community.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (internal citations
13 omitted); *see also* 8 U.S.C. 1226(a), (b); 8 C.F.R. 1236.1(c)(8).

14 29. Someone like Alvaro who was previously released from custody has been
15 deemed, to be neither a flight risk nor a danger. 8 C.F.R. 1236.1(c)(8) (authorizing
16 release of noncitizens under 1226(a) if they “would not pose a danger to property
17 or persons,” and are “likely to appear for any future proceeding”); 8 C.F.R.
18 212.5(b) (authorizing parole from custody of noncitizens deemed “neither a
19 security risk nor a risk of absconding”).

1 30. In cases of individuals previously released by DHS, re-detention under section
2 1226(a) requires an individualized determination of a material change in
3 circumstances relating to flight risk or danger. *See Ortega*, 415 F.Supp.3d at 968
4 (“DHS re-arrests individuals only after a ‘material’ change in circumstances.”
5 (citing *Saravia*, 280 F.Supp.3d at 1197)); *see also Matter of Sugay*, 171 I&N Dec.
6 637, 640 (BIA 1981) (“[W]here a previous bond determination has been made by
7 an immigration judge, no change should be made by [DHS] absent a change of
8 circumstance.”).

9 31. The Constitution establishes due process rights for “all ‘persons’ within the
10 United States, including [noncitizens], whether their presence here is lawful,
11 unlawful, temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990
12 (9th Cir. 2017) (quoting *Zadvydas v. Davis*, 533 U.S. 678 (2001)). These due
13 process rights are both substantive and procedural.

14 32. “The touchstone of due process is protection of the individual against arbitrary
15 action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including
16 “the exercise of power without any reasonable justification in the service of a
17 legitimate government objective.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833,
18 846 (1998).

19 33. These protections extend to noncitizens facing detention, as “[i]n our society
20 liberty is the norm, and detention prior to trial or without trial is the carefully
21

1 limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).
2 Accordingly, “[f]reedom from imprisonment—from government custody,
3 detention, or other forms of physical restraint—lies at the heart of the liberty that
4 [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

5 34. Substantive due process thus requires that all forms of civil detention—including
6 immigration detention—bear a “reasonable relation” to a non-punitive purpose.
7 *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has
8 recognized only two permissible non-punitive purposes for immigration detention:
9 ensuring a noncitizen’s appearance at immigration proceedings and preventing
10 danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*,
11 538 U.S. 510, 519–20, 527–28, 31 (2003).

12 35. Generally, “the Constitution requires some kind of a hearing *before* the State
13 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127
14 (1990) (emphasis added). This is so even in cases where that freedom is lawfully
15 revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d at 683 (citing *Young v. Harper*, 520
16 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision
17 requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)
18 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in
19 parole context).

1 36. After an initial release from custody on conditions, even a person paroled
2 following a conviction for a criminal offense for which they may lawfully have
3 remained incarcerated, has a protected liberty interest in that conditional release.
4 *Morrissey* at 408 U.S. at 482. As the Supreme Court recognized, “[t]he parolee
5 has relied on at least an implicit promise that parole will be revoked only if he
6 fails to live up to the parole conditions.” *Id.* “By whatever name, the liberty is
7 valuable and must be seen within the protection of the [Constitution].” *Id.*

8 37. This reasoning applies with equal if not greater force to people who were granted
9 release on their own recognizance from civil immigration detention and were
10 apprehended before their removal order became final, like Petitioner. Noncitizens
11 living in the United States, like Petitioner, have a protected liberty interest in their
12 ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. “Given the
13 civil context [of immigration detention], [the] liberty interest [of noncitizens
14 released from custody] is arguably greater than the interest of parolees in
15 *Morrissey*.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (citing
16 *Morrissey*, 408 U.S. at 487).

17 38. Moreover, even should Petitioner’s detention be deemed permissible, he remains
18 eligible for a bond hearing for the same reasons provided in *Maldonado Bautista*⁴,
19

20 ⁴ The U.S. Court of Appeals for the Ninth Circuit granted an administrative stay of the
21 *Maldonado Bautista* decision “insofar as the district court’s judgment extends beyond
the Central District of California.” *Maldonado Bautista, et al. v. United States*

1 that Section 1226(a) governs the detention of noncitizens “inside the United
2 States” and “present in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 288–89
3 (2018).

4 **CLAIM FOR RELIEF**

5 **CLAIM ONE**

6 **Violation of the Fifth Amendment to the United States Constitution
(Substantive Due Process – Detention)**

7 39. Petitioner incorporates by reference the allegations of fact set forth in the
8 preceding paragraphs.

9 40. The Due Process Clause of the Fifth Amendment protects all “person[s]” from
10 deprivation of liberty “without due process of law.” U.S. Const. amend.
11 V. “Freedom from imprisonment—from government custody, detention, or other
12 forms of physical restraint—lies at the heart of the liberty that [the Due Process]
13 Clause protects.” *Zadvydas*, 533 U.S. at 690.

14 41. Immigration detention is constitutionally permissible only when it furthers the
15 government’s legitimate goals of ensuring the noncitizen’s appearance during
16 removal proceedings and preventing danger to the community. *See id.* When the
17 Government has previously decided to release a noncitizen and there is no
18 evidence in the record of any changed circumstance that might have caused the
19 Government to reconsider its initial decision to release the noncitizen, courts

20 *Department of Homeland Security, et al.*, No. 26-1044, ECF No. 5 (9th Cir. March 6,
21 2026)

1 have found the Government's interest in re-detention is low. *Doe v. Chestnut*,
2 No. 1:25-cv-01372CDB (HC), 2025 WL 3295154, at *10 (E.D. Cal. Nov. 26,
3 2025) (citations omitted).

4 42. "[E]ven when ICE has the initial discretion to detain or release a noncitizen
5 pending removal proceedings, after that individual is released from custody she
6 has a protected liberty interest in remaining out of custody." *Pinchi v. Noem*, 792
7 F. Supp 3d 1025, 1032 (N.D. Cal. 2025) (citing *Romero v. Kaiser*, No. 22-cv-
8 02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022); *Jorge M. F. v.*
9 *Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021);
10 *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *3 (N.D. Cal.
11 Aug. 23, 2020); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)).

12 43. Many courts in this district have joined a number of district courts to recognize
13 that noncitizens have a significant liberty interest in both "continued freedom
14 after release on own recognizance," *Alegria Palma v. Larose*, No. 25-cv-1942-
15 BJC-MMP, ECF No. 14, at *6 (S.D. Cal. Aug. 11, 2025) (emphasis added), and
16 in "freedom from imprisonment" after "the government grants a [noncitizen]
17 parole into the country," *Sanchez v. LaRose*, No. 25-CV-2396-JESMMP, 2025
18 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025) (emphasis added). *See also Miguel*
19 *v. Bondi et al.*, No. 3:26-cv-01636-JLS-SBC (S.D. Cal. Mar. 27, 2026); *Prieto-*
20 *Cordova*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19,

2025); *Faizyan v. Casey*, No. 25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025); *Ramazan M. v. Andrews*, No. 25-cv-01356-KES-SKO (HC), 2025 WL 3145562 (E.D. Cal. Nov. 20, 2025); *Gomez Vilela v. Robbins*, No. 25-cv-01393-KES-HBK (HC), 2025 WL 3101334 (E.D. Cal. Nov. 6, 2025); *Pablo Sequen v. Albarran*, No. 25-cv-06487-PCP, 2025 WL 2935630 (N.D. Cal. Oct. 15, 2025); *Hyppolite v. Noem*, No. 24-cv-4304 (NRM), 2025 WL 2829511 (E.D. N.Y. Oct. 6, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Ramirez Tesara v. Wamsley*, No. 25-cv-01723-MJPTLF, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025); *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).

44. Petitioner is not a flight risk or danger to the community, as evidenced by his complete lack of criminal history since entering the United States as an unaccompanied minor. ON the contrary, he has shown not only respect for U.S. laws by seeking to regularize his status and file affirmative applications for immigration relief, but also by contributing to society by graduating from high school and seeking gainful employment. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

CLAIM TWO

Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process – Detention)

1 45. As part of the liberty protected by the Due Process Clause, Petitioner has a
2 weighty liberty interest in avoiding re-detention after his release. *See Young v.*
3 *Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–
4 82 (1973); *Morrissey*, 408 U.S. at 482–83; *see also Ortega*, 415 F. Supp. 3d at
5 969–70 (holding that a noncitizen has a protected liberty interest in remaining out
6 of custody following an IJ’s bond determination).

7 46. Accordingly, “[i]n the context of immigration detention, it is well-settled that
8 due process requires adequate procedural protections to ensure that the
9 government’s asserted justification for physical confinement outweighs the
10 individual’s constitutionally protected interest in avoiding physical
11 restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494 U.S. at 127
12 (Generally, “the Constitution requires some kind of a hearing *before* the State
13 deprives a person of liberty or property.”). In the immigration context, for such
14 hearings to comply with due process, the government must bear the burden to
15 demonstrate, by clear and convincing evidence, that the noncitizen poses a flight
16 risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th
17 Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

18 47. Petitioner’s re-detention without a pre-deprivation hearing violated due
19 process. Over six years after his release in 2020, Respondents re-detained
20 Petitioner with no notice, no explanation of the justification for his re-detention,
21

1 and no opportunity to contest his re-detention in front of a neutral adjudicator
2 before being taken into custody.

3 48. Petitioner has a profound personal interest in his liberty. *See Alvarenga Matute*
4 *v. Wofford*, 2025 WL 2996577, * 4 (E.D. Ca. Oct. 24, 2025) (confirming that
5 noncitizen with an outstanding removal order had a protected liberty interest due
6 to his previous conditional release).

7 49. Prior to his re-detention in March of 2026, Petitioner had no notice of
8 Respondents' intention to re-detain him and no opportunity to contest that action.
9 Because the private interest in freedom from immigration detention is substantial,
10 due process requires the government to bear the burden of proving by clear and
11 convincing evidence that Petitioner is a flight risk or danger to the community
12 before re-detaining him. *See e.g., Rodriguez Diaz v. Kaiser*, 2025 WL 3011852,
13 *11 (N.D. Ca. Sep. 16, 2025).

14 50. The government has no legitimate interest in detaining Petitioner without a
15 hearing. *See e.g., Peters v. Wofford*, 2025 WL 2299801, *7 (E.D. Ca. Aug. 8,
16 2025) (finding that "the government's asserted interest is hinged on mere
17 speculation about [the noncitizen's] risk of flight or dangerousness" given that
18 noncitizen was complying with terms of his probation when detained); *Noori*,
19 2025 WL 2800149 at *11 ("Respondents did not provide Petitioner
20 individualized notice and reasoning prior to his arrest and detention on June 12,

2025 and have presented no legitimate reason for why those decisions were made. Any governmental interest of efficient administration of immigration laws . . . does not outweigh these first two factors.”). Bond hearings are a routine part of immigration court proceedings, imposing a minimal cost to the government. *See Doe v. Becerra*, --- F.Supp.3d ----, 2025 WL 691664, *6 (E.D. Ca. March 3, 2025). Nothing in Petitioner’s record suggests that he would abscond or endanger the community before a bond hearing could be carried out. *See, e.g., Jorge M.F. v. Wilkinson*, 2021 WL 783561 *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, *3 (N.D. Cal. Aug. 23, 2020) (finding that “the government’s concern that delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner’s strong family ties and his continued employment during the pandemic as an essential agricultural worker”). In fact, Petitioner is represented by counsel and has a demonstrated record of attendance when scheduled for hearings or immigration-related appointments. The government has not sufficiently demonstrated the changed circumstances that required his detention after being served a second NTA given that Petitioner had been released on bond and out of custody for over two years and has had no issues with law enforcement in that time. There is no reason to think that his compliance will change if he is released pending a pre-deprivation custody hearing.

CLAIM THREE
Violation of the INA - 8 U.S.C. 1226(a)

51. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

52. Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a). he was not “seeking admission” at the time of his redetention, so his detention is governed by section 1226(a). *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-

DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

53. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Issue an order preventing Respondents from transferring Petitioner away from the Otay Mesa Detention Center, the closest detention center to counsel's office;
- 3) Issue an order to show cause and require a response within three days from Respondents as to why this petition should not be granted, pursuant to 28 U.S.C. § 2243;
- 4) Issue a writ of habeas corpus requiring Respondents to immediately release Petitioner because he is re-detained in violation of his due process rights, or that they must provide a bond hearing under 8 U.S.C. § 1226(a) and that the bond hearing must be before a fair, neutral, open-minded arbiter, and if the bond hearing is not fair and neutral, Petitioner be released immediately;

- 1 5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
2 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
3 and
4 6) Grant any other and further relief that this Court deems just and proper.

5
6 Dated: April 10, 2026

Respectfully submitted,

7 /s/ Leah L. Chavarria
Leah L. Chavarria
Counsel for Petitioner
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9 **LIST OF EXHIBITS**

10 EXHIBIT A: Declaration of Tessa Cabrera

11 EXHIBIT B: Notices to Appear

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

13 I represent Petitioner, Alvaro Steve Alvarez Gallardo, and submit this
14 verification on his behalf. I hereby verify under penalty of perjury under the laws of
15 the United States and the State of California that the factual statements made in the
16 foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my
17 knowledge.

18 Dated this 10th day of April, 2026.

19 /s/ Leah L. Chavarria
Leah L. Chavarria
Counsel for Petitioner
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