

1 DANIEL S. CASTANEDA, ESQ. (SBN276762)  
2 EOIR ID: AT547914  
3 3065 Rosecrans Place, Suite 204  
4 San Diego, CA 92110  
5 Tel:(619)710-6095  
Fax:(619)5664128  
daniel@castalegal.com

6 Counsel for Petitioner  
7 Walter Alexander Sarceno Resino

8 UNITED STATES DISTRICT COURT  
9  
10 SOUTHERN DISTRICT OF CALIFORNIA

11  
12 WALTER A. SARCENO RESINO,  
13  
14 Petitioner,

15 v.

16 MARKWAYNE MULLIN, Secretary, U.S.  
17 Department of Homeland Security; Pamela BONDI,  
18 U.S. Attorney General; Todd LYONS, Acting  
19 Director, Immigration and Customs Enforcement;  
20 Gregory J. ARCHAMBEAULT, Director, Imperial  
21 Field Office, Immigration and Customs, JEREMY  
22 CASEY, Warden, Imperial Regional Adult  
23 Detention Facility; EXECUTIVE OFFICE FOR  
24 IMMIGRATION REVIEW; IMMIGRATION  
25 AND CUSTOMS ENFORCEMENT; and U.S.  
26 DEPARTMENT OF HOMELAND SECURITY,

27 Respondents.  
28


Case No. '26 CV2326 JES DEB

PETITION FOR WRIT OF  
HABEAS CORPUS UNDER 28  
U.S.C. § 2241; VERIFIED  
PETITION

PETITIONER'S A NO 

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**I. INTRODUCTION**

1. Petitioner Walter Alexander Sarceno Resino, by and through undersigned counsel, respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, together with claims for declaratory and injunctive relief, challenging his continued and unlawful detention by the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”).
2. Petitioner is was born  and first entered the United States without inspection on or about June 2004.
3. Following his entry, Petitioner was briefly detained. At that time, prior counsel filed for asylum, and his case was administratively closed on or about August 4, 2016.
4. For approximately two decades, Petitioner has resided in the United States, building a life, forming a family, and living at liberty in the community.
5. Petitioner is married and is the father of four minor children, ages approximately 15, 13, 9, and 5, all of whom depend on him for emotional and financial support.
6. Petitioner has no criminal history and poses no danger to the community.
7. On or about February 23, 2026, Petitioner was suddenly detained by immigration authorities while going to purchase coffee at a gas station in Indio, California.
8. Petitioner was not presented with a warrant and was given no explanation for his arrest.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

9. Since that date, Petitioner has remained detained at the Imperial Regional Detention Facility.

10. Despite being in custody, Petitioner does not appear in the EOIR system, has not been issued a Notice to Appear, and has not been placed into removal proceedings.

11. Petitioner has not been provided any meaningful opportunity to seek release from custody and has not received any individualized custody determination.

12. Respondents have not articulated any statutory basis for Petitioner's continued detention.

13. Petitioner's continued detention is unlawful for multiple independent reasons. First, Respondents lack statutory authority to detain him under INA § 235(b). Second, Petitioner has been denied any individualized custody determination. Third, Respondents have failed to initiate removal proceedings, leaving him in indefinite detention without access to EOIR review. Fourth, Respondents have failed to justify detention under any lawful standard.

14. Federal courts have increasingly recognized that such detention practices violate the Fifth Amendment, particularly where individuals are detained without access to meaningful procedural safeguards.

15. Immediate judicial intervention is warranted. Petitioner's continued detention serves no legitimate purpose, and each additional day of confinement inflicts irreparable harm on him and his family.

**II. JURISDICTION**

1 16. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is  
2 currently in custody under color of the authority of the United States and  
3 seeks relief on the ground that his detention violates the Constitution and laws  
4 of the United States.  
5

6 17. Habeas corpus is the proper vehicle to challenge unlawful immigration  
7 detention, as numerous courts have recognized.

8 18. Petitioner does not seek review of any final order of removal. Rather, he  
9 challenges the legality of his ongoing detention and the government's failure  
10 to provide a custody determination or access to immigration proceedings.  
11

12 19. Such claims lie at the core of habeas review.

13 20. This Court also has jurisdiction under 28 U.S.C. § 1331.

14 21. Jurisdiction is further supported by the Administrative Procedure Act, 5  
15 U.S.C. § 706.  
16

### 17 III. VENUE

18 22. Venue is proper in the Southern District of California pursuant to 28  
19 U.S.C. § 1391(e) because Petitioner is detained at the Imperial Regional  
20 Detention Facility Petitioner in Calexico, California, which is located Imperial  
21 County, which, in turn, is within the jurisdiction of the United States District  
22 Court for the Southern District of California, See 28 U.S.C. § 84(d). Braden  
23 v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973).  
24

### 25 IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

26  
27 23. Under 28 U.S.C. § 2241, federal courts may entertain petitions for a writ of  
28 habeas corpus on behalf of individuals who are in custody in violation of the

1 Constitution, laws, or treaties of the United States. Petitioner satisfies those  
2 requirements. He is presently detained under federal immigration authority,  
3 and he alleges that Respondents are holding him without lawful statutory  
4 authority, without access to immigration court proceedings, and in violation of  
5 the INA, the Administrative Procedure Act, federal regulations, and the Due  
6 Process Clause of the Fifth Amendment.  
7

8 24. This is therefore a classic habeas case. Petitioner challenges the present fact  
9 and legal basis of his confinement. He does not seek an advisory opinion or  
10 abstract declaration. Rather, he seeks immediate judicial relief from an  
11 ongoing deprivation of physical liberty that is unsupported by any valid  
12 statutory framework and that is being carried out without constitutionally  
13 adequate procedures.  
14

15 25. Section 2243 further requires that a court receiving a habeas petition must act  
16 promptly. The statute provides that the court shall “forthwith award the writ or  
17 issue an order directing the respondent to show cause why the writ should not  
18 be granted,” unless it plainly appears that the detainee is not entitled to relief.  
19 This statutory command reflects the historic and essential role of habeas  
20 corpus as a swift and effective remedy against unlawful executive detention.  
21

22 26. Congress’s directive that habeas petitions receive expedited consideration is  
23 particularly important in the immigration detention context, where individuals  
24 may otherwise remain confined for prolonged periods without meaningful  
25 judicial oversight. Courts have repeatedly emphasized that habeas review  
26  
27  
28

1 must be prompt where a petitioner alleges unlawful detention without  
2 adequate process.

3  
4 27. Petitioner entered the United States in or about June 2004 and has resided  
5 continuously in this country for more than twenty years. Prior to his arrest, he  
6 had been living in the community, working, and maintaining strong family  
7 ties within the United States.

8  
9 28. Following his arrest, Petitioner was taken into ICE custody and has remained  
10 detained at the Imperial Regional Detention Facility, where he is currently  
11 confined.

12  
13 29. Despite being in custody for several weeks, Petitioner has not been issued a  
14 Notice to Appear and does not appear in the EOIR system. As a result, he has  
15 not been placed into removal proceedings and has no access to an Immigration  
16 Judge to seek custody redetermination or any other form of relief.

17  
18 30. Petitioner has not been provided any meaningful custody determination prior  
19 to or following his detention. Respondents have not afforded him an  
20 individualized hearing, have not articulated any basis for his continued  
21 confinement, and have not provided any procedural mechanism through which  
22 he may seek release.

23  
24 31. Nonetheless, DHS continues to detain Petitioner as though he were subject to  
25 mandatory detention under INA § 235(b), without affording him the statutory  
26 and constitutional protections required under law.

27  
28 32. Nothing on the face of this Petition suggests that Petitioner is plainly not  
entitled to relief. To the contrary, the absence of any meaningful custody

1 process, combined with the failure to initiate immigration proceedings,  
2 underscores the unlawfulness of his continued detention.

3  
4 33. Accordingly, under 28 U.S.C. § 2243, this Court should promptly issue an  
5 order directing Respondents to show cause why the writ should not be  
6 granted.

7 34. The urgent nature of habeas review is particularly appropriate here because  
8 Petitioner remains confined without access to immigration court proceedings,  
9 without a custody hearing, and without any meaningful opportunity to  
10 challenge his detention. Each additional day of confinement compounds the  
11 deprivation of his fundamental liberty interests.  
12

13  
14 **V. PARTIES**

15 35. Petitioner Walter Alexander Sarceno Resino is a noncitizen who entered the  
16 United States in June 2004.

17 36. He has resided continuously in the United States for over twenty years.

18 37. Petitioner is married and is the father of four minor children who are US  
19 citizens.  
20

21 38. Petitioner has no criminal history.

22 39. Petitioner had been living and working in the community prior to his arrest.

23 40. Petitioner is currently detained at the Imperial Regional Detention Facility.  
24

25 **VI. RESPONDENTS**

26 41. Respondent JEREMY CASEY is the warden of Imperial Regional Adult  
27 Detention Facility and has immediate physical custody over Petitioner. As the  
28 local custodian, the Warden is responsible for the day-to-day administration of

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

the detention facility where Petitioner is held. The Warden is sued in his/her official capacity as a representative of the entity exercising direct custody over Petitioner.

42. Respondent GREGORY J. ARCHAMBEAULT is the Director of the ICE Imperial Field Office, which has jurisdiction over immigration enforcement and detention operations in this region (including at the Imperial Regional Detention Facility). This Respondent has supervisory authority over Petitioner's custody and detention conditions. He is sued in his official capacity.

43. Respondent MARKWAYNE MULLIN, in his official capacity as the Secretary of the Department of Homeland Security, is the highest-ranking official in DHS. He has ultimate authority over ICE and the enforcement of immigration laws, including detention policy. DHS, under Respondent Noem's direction, is responsible for the decision to continue Petitioner's detention and to designate him as subject to mandatory custody. He is sued in his official capacity.

44. Respondent PAMELA BONDI, in her official capacity as the Attorney General of the United States, oversees the U.S. Department of Justice, which includes the Executive Office for Immigration Review (EOIR). EOIR encompasses the nation's Immigration Courts and the Board of Immigration Appeals (BIA). The Attorney General has ultimate authority over immigration court procedures, including the availability of bond hearings and the

1 interpretation of detention statutes through precedent decisions. Respondent  
2 Bondi is sued in her official capacity.

3  
4 **VII. LEGAL FRAMEWORK**

5 45. Federal immigration law authorizes detention under several distinct provisions  
6 of the Immigration and Nationality Act (“INA”). Which provision applies is  
7 critical because it determines whether an individual may be released on bond,  
8 must remain detained, or is entitled to custody review before an Immigration  
9 Judge.

10  
11 46. The INA draws a fundamental distinction between noncitizens already present  
12 in the United States and those treated as applicants for admission at the  
13 threshold of entry. Congress also created separate detention schemes for  
14 certain criminal cases and for individuals subject to final orders of removal.  
15 See *Jennings v. Rodriguez*, 583 U.S. 281, 293–94 (2018).

16  
17 47. INA § 236(a), 8 U.S.C. § 1226(a), is the default detention authority for  
18 noncitizens present in the United States and placed in removal proceedings. It  
19 authorizes detention but also permits release on bond or conditional parole.  
20 Individuals detained under this provision are generally entitled to seek custody  
21 redetermination before an Immigration Judge. See 8 C.F.R. §§ 236.1(c)(8),  
22 1236.1(d), 1003.19(a).

23  
24 48. INA § 236(c), 8 U.S.C. § 1226(c), creates a narrow category of mandatory  
25 detention for certain noncitizens with specified criminal convictions or  
26 terrorism-related conduct. See *Demore v. Kim*, 538 U.S. 510, 517–18 (2003).

1 49. INA § 235(b), 8 U.S.C. § 1225(b), governs detention of certain “applicants for  
2 admission,” a category historically limited to individuals encountered at or  
3 near the border or otherwise seeking entry. See Jennings, 583 U.S. at 293.

4  
5 50. The statute does not authorize DHS to treat noncitizens who have been  
6 residing in the United States for an extended period of time as “applicants for  
7 admission” subject to mandatory detention under INA § 235(b).

8 51. Courts within California have repeatedly held that individuals who have been  
9 living in the United States and are later detained are governed, if at all, by  
10 INA § 236(a), rather than § 235(b):

- 11  
12 • *Beltran v. Noem*, No. 25-cv-2650 LL, 2025 WL 3078837, at \*5 (S.D.  
13 Cal. Nov. 4, 2025) (“The Court finds the plain text of § 1225(b)(2) does not  
14 support Respondents’ contention that it applies to any noncitizen present in  
15 the United States who has not been admitted.”).
- 16  
17 • *Lopez v. Warden, Otay Mesa Det. Ctr.*, No. 25-CV-2527-RSH-SBC, 2025 WL  
18 3005346, at \*4 (S.D. Cal. Oct. 27, 2025) (“The Court concludes that Petitioner  
19 is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and  
20 that detention is instead governed by § 1226(a).”).
- 21  
22 • *Esquivel-Ipina v. LaRose*, No. 25-CV-2672-JLS (BLM), 2025 WL 2998361, at  
23 \*5 (S.D. Cal. Oct. 24, 2025) (“Petitioner is not an applicant for admission  
24 under § 1225(b) and is entitled to seek release under § 1226(a).”).
- 25  
26 • *Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at  
27 \*6 (S.D. Cal. Oct. 30, 2025).
- 28

- 1 • *Garcia v. Noem*, No. 25-CV-02180-DMS-MMP, 2025 WL 2549431, at \*8 (S.D.  
2 Cal. Sept. 3, 2025).

3  
4 52. This issue was directly addressed in *Maldonado Bautista v. Santacruz*, where  
5 the district court held that noncitizens placed into removal proceedings and  
6 residing in the United States are detained under INA § 236(a), not § 235(b),  
7 and are entitled to individualized custody determinations.

8  
9 53. The government appealed that decision, and the Ninth Circuit issued a  
10 temporary administrative stay on March 6, 2026. That stay does not resolve  
11 the merits of the detention issue and does not eliminate this Court’s authority  
12 to adjudicate individual habeas challenges.

13  
14 54. The Fifth Amendment independently limits immigration detention. The Due  
15 Process Clause requires that deprivations of liberty be accompanied by  
16 meaningful procedural safeguards. See *Zadvydas v. Davis*, 533 U.S. 678, 690  
17 (2001).

18  
19 55. These protections are especially important in re-detention contexts, where the  
20 government seeks to take into custody an individual it previously allowed to  
21 remain at liberty.

22  
23 56. Federal courts have recognized that re-detention without notice, justification,  
24 or a pre-deprivation hearing violates due process. See, e.g., *Pablo Sequen v.*  
25 *Albarran*, No. 25-cv-06487-PCP, 2025 WL 2935630, at \*5 (N.D. Cal. Oct. 15,  
26 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS (VET), 2025 WL 3063629, at  
27 \*5 (S.D. Cal. Nov. 3, 2025); *Hyppolite v. Noem*, No. 24-cv-4304 (NRM),  
28 2025 WL 2829511, at \*7 (E.D.N.Y. Oct. 6, 2025).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VIII. FACTS**

- 57. Petitioner entered the United States without inspection in June 2004.
- 58. Shortly after entry, he was detained and placed into proceedings.
- 59. Prior counsel filed an application for asylum.
- 60. Petitioner’s immigration case was administratively closed on or about August 4, 2016.
- 61. Following that closure, Petitioner remained at liberty in the United States for nearly ten years.
- 62. Petitioner established a family and became the father of four minor children.
- 63. Petitioner has no criminal history.
- 64. On February 23, 2026, Petitioner was detained by immigration authorities in Indio, California while going to purchase coffee at a gas station.
- 65. Petitioner was not presented with a warrant or any justification for his arrest.
- 66. Petitioner was taken into ICE custody and transported to the Imperial Regional Detention Facility.
- 67. Petitioner has not been issued a Notice to Appear.
- 68. Petitioner does not appear in the EOIR system.
- 69. Petitioner has not received any custody redetermination hearing.
- 70. Petitioner remains detained without access to immigration court proceedings.

**IX. FIRST CLAIM FOR RELIEF**

**Mr. Sarceno Resino’s Detention is in Violation of 8 U.S.C. § 1226(a)**

Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

71. Respondents are detaining Petitioner without identifying a lawful statutory basis, and upon information and belief, are treating him as subject to mandatory detention under INA § 235(b) as an “applicant for admission.”

72. That classification is legally erroneous. Petitioner entered the United States in June 2004 and has resided continuously in the country for more than twenty years.

73. Petitioner was not apprehended at or near the border, nor was he seeking admission at a port of entry at the time of his arrest. Instead, he was living in the interior of the United States and was detained while engaging in routine daily activity at a gas station in Indio, California.

74. Petitioner’s longstanding physical presence, combined with his deep family and community ties, removes him from the category of individuals properly treated as “applicants for admission” under INA § 235(b).

75. Federal courts within this Circuit have repeatedly held that INA § 1225(b) does not authorize mandatory detention for individuals who have been residing in the United States for extended periods and are later arrested in the interior.

76. Instead, individuals in Petitioner’s position are governed, if at all, by INA § 236(a), which authorizes discretionary detention and permits release on bond or conditional parole.

77. Petitioner does not fall within any mandatory detention provision. He has no criminal history and does not fall within the narrow categories described in INA § 236(c).

1 78. Petitioner was permitted to live freely in the United States for many years  
2 following the administrative closure of his immigration case in 2016, further  
3 confirming that he is not properly treated as an arriving applicant for  
4 admission.  
5

6 79. Respondents' attempt to detain Petitioner under INA § 235(b), if that is the  
7 basis of detention, is contrary to the text, structure, and purpose of the INA.

8 80. Because DHS lacks statutory authority to detain Petitioner as a mandatory  
9 detainee under § 235(b), his continued detention is unlawful.  
10

11 81. At minimum, Petitioner must be treated as a detainee under INA § 236(a) and  
12 afforded the protections of that statute, including a prompt custody  
13 redetermination hearing before an Immigration Judge.  
14

#### 15 **X. SECOND CLAIM FOR RELIEF**

#### 16 **Violation of the Administrative Procedure Act (APA) (5 U.S.C. § 706 – Agency Action 17 Not in Accordance with Law, in Excess of Authority, and Arbitrary and Capricious)**

18 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:  
19

20 82. The Administrative Procedure Act requires courts to hold unlawful and set  
21 aside agency action that is not in accordance with law, exceeds statutory  
22 authority, or is arbitrary and capricious.

23 83. Respondents' decision to detain Petitioner without identifying a lawful  
24 statutory basis, and to deny him access to a custody determination, constitutes  
25 final agency action because it determines the legal basis of his confinement.  
26

27 84. That action is not in accordance with law because it applies immigration  
28 detention authority in a manner inconsistent with the INA.

1 85. Specifically, treating Petitioner as subject to mandatory detention under INA §  
2 235(b)—despite his more than twenty years of residence in the United States  
3 and his interior arrest—is contrary to the statute.  
4

5 86. The action is in excess of statutory authority because Congress did not  
6 authorize DHS to detain long-term interior residents as “applicants for  
7 admission” based solely on their historical manner of entry.  
8

9 87. Respondents’ conduct is also arbitrary and capricious because it fails to  
10 consider the relevant facts of Petitioner’s case, including his decades-long  
11 residence, his family ties, and his lack of criminal history.  
12

13 88. Respondents have further acted arbitrarily by detaining Petitioner without  
14 issuing a Notice to Appear or placing him into removal proceedings.  
15

16 89. The failure to initiate proceedings deprives Petitioner of any access to an  
17 Immigration Judge and any meaningful mechanism to challenge his detention.  
18

19 90. Respondents’ continued detention of Petitioner without initiating proceedings,  
20 without providing a custody determination, and without articulating a lawful  
21 basis for detention reflects a complete absence of reasoned decision-making.  
22

23 91. As a result of this unlawful agency action, Petitioner remains confined without  
24 access to the procedural protections required by law.  
25

26 92. Respondents’ actions therefore violate the APA and must be set aside.  
27

### 28 **XI. THIRD CLAIM FOR RELIEF**

#### **Violation of the Fifth Amendment (Due Process Clause) (Unconstitutional Prolonged Detention Without Individualized Hearing)**

Petitioner incorporates by reference all preceding paragraphs as if fully set forth herein:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

94. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. This protection applies to noncitizens physically present in the United States.

95. Respondents' detention of Petitioner violates both procedural and substantive due process.

**a. Procedural Due Process**

96. Due process requires that the government provide notice and a meaningful opportunity to be heard before depriving a person of physical liberty.

97. Petitioner has lived in the United States for more than twenty years and had been residing peacefully in the community prior to his arrest.

98. Respondents abruptly detained Petitioner in a public setting, without a warrant, without advance notice, and without explaining the legal basis for his arrest.

99. Petitioner has not been issued a Notice to Appear and does not appear in the EOIR system.

100. As a result, Petitioner has no access to immigration court proceedings and no ability to seek review of his detention before an Immigration Judge.

101. Respondents have not provided any custody determination, either before or after detention.

102. Petitioner has therefore been deprived of any meaningful opportunity to challenge his detention.

103. There has been no showing of any change in circumstances that would justify detaining Petitioner after allowing him to live at liberty for many years following the administrative closure of his case in 2016.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

104. When the government permits an individual to live freely in the community for an extended period, due process requires meaningful procedural safeguards before that liberty can be withdrawn.

105. The risk of erroneous deprivation is extremely high because Respondents have not identified any individualized basis—such as danger or flight risk—to justify detention.

106. Under *Mathews v. Eldridge*, Petitioner’s liberty interest is substantial, the risk of error is severe, and the government’s interests can be protected through less restrictive alternatives.

107. Respondents’ failure to provide any meaningful process violates procedural due process.

**b. Substantive Due Process**

108. Substantive due process prohibits civil detention that is arbitrary or not reasonably related to a legitimate governmental purpose.

109. Petitioner has exceptionally strong equities, including over twenty years of residence in the United States, a spouse, and four minor children who depend on him.

110. Petitioner has no criminal history and poses no danger to the community.

111. Respondents have made no individualized showing that Petitioner poses a risk of flight or danger.

112. Detaining Petitioner under these circumstances—without proceedings, without a custody determination, and without any articulated justification—is arbitrary and excessive.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

113. The Supreme Court has repeatedly emphasized that civil detention must be carefully limited and justified by legitimate governmental purposes.

114. Respondents' conduct here is not reasonably related to any such purpose.

115. By detaining Petitioner without lawful authority and without meaningful procedural safeguards, Respondents are violating the Due Process Clause of the Fifth Amendment.

116. This Court should order Petitioner's immediate release or, at minimum, a prompt constitutionally adequate custody hearing at which the government bears the burden of proof.

**XII. FOURTH CLAIM FOR RELIEF**

**Violation of DHS and EOIR Detention Regulations**

Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

117. DHS and EOIR regulations govern the availability of custody determinations and bond hearings.

118. These regulations provide that individuals detained under INA § 236(a) are entitled to seek custody redetermination before an Immigration Judge.

119. Petitioner does not fall within any category that would preclude eligibility for bond.

120. By detaining Petitioner without providing access to a custody determination and without placing him into removal proceedings, Respondents are acting inconsistently with governing regulations.

121. See 8 C.F.R. §§ 236.1, 1236.1, 1003.19.

1 122. Respondents have further violated these regulations by failing to issue a  
2 Notice to Appear and failing to docket Petitioner's case with EOIR.

3 123. This failure deprives Petitioner of access to an Immigration Judge and  
4 prevents him from seeking custody review.  
5

6 124. Respondents' conduct places Petitioner in custody in violation of both  
7 statutory and regulatory law.

8 125. Habeas relief is warranted on that basis as well.  
9

10 **XIII. PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- 12 a. Assume jurisdiction over this Petition pursuant to 28 U.S.C. §§ 2241 and 1331, as  
13 this matter falls squarely within the Court's habeas corpus and federal question  
14 jurisdiction;  
15  
16 b. Declare that Petitioner's detention under INA § 235(b) is unlawful. In particular,  
17 declare that Petitioner is not properly classified as an "applicant for admission"  
18 subject to mandatory detention, and that his continued detention without access to a  
19 bond hearing violates the Immigration and Nationality Act, the Administrative  
20 Procedure Act, and the Due Process Clause of the Fifth Amendment;  
21  
22 c. Issue an Order to Show Cause directing Respondents to show cause within three (3)  
23 days why this Petition should not be released or granted a bond hearing;  
24  
25 d. Issue a Writ of Habeas Corpus directing Respondents to immediately release  
26 Petitioner from custody under reasonable conditions of supervision, reporting  
27 requirements, or other noncustodial conditions, particularly in light of his long-term  
28 residence in the United States, strong family ties, and equities;

- 1 e. In the alternative, if the Court declines to order immediate release, declare that  
2 Petitioner is entitled to a custody redetermination hearing under INA § 236(a), and  
3 that he must be treated as a § 236(a) detainee with access to a prompt individualized  
4 hearing before an Immigration Judge;  
5  
6 f. Order that at any such custody hearing, the burden shall be on the government to  
7 demonstrate, by clear and convincing evidence, that Petitioner's continued  
8 detention is necessary because he poses a risk of flight or a danger to the  
9 community, and that less restrictive alternatives are insufficient;  
10  
11 g. Declare that Respondents' failure to initiate removal proceedings and failure to  
12 provide Petitioner access to the immigration court system, including the absence of  
13 a Notice to Appear and lack of EOIR docketing, violates the Immigration and  
14 Nationality Act, applicable regulations, and the Due Process Clause;  
15  
16 h. Issue a temporary restraining order and/or preliminary injunction, as necessary,  
17 prohibiting Respondents from continuing Petitioner's unlawful detention during the  
18 pendency of this action;  
19  
20 i. Enjoin Respondents from transferring Petitioner outside the jurisdiction of the  
21 Central District of California during the pendency of this action, in order to  
22 preserve this Court's jurisdiction and ability to grant effective relief;  
23  
24 j. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access  
25 to Justice Act, 28 U.S.C. § 2412, and any other applicable authority;  
26  
27 k. Grant such other and further relief as this Court deems just and proper.

28 Respectfully submitted on:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: April 9, 2026

/s/ Daniel S. Castaneda  
DANIEL S. CASTANEDA,  
3065 Roscrans Place, Suite 204 San Diego, CA 92110  
Tel:(619)710-6095  
Fax:(619)5664128  
daniel@castalegal.com  
Counsel for Petitioner-Plaintiff

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I, Daniel S. Castaneda, submit this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully submitted on:

Dated: April 9, 2026

/s/ Daniel S. Castaneda  
DANIEL S. CASTANEDA,  
3065 Rosecrans Place, Suite 204 San Diego, CA 92110  
Tel:(619)710-6095  
Fax:(619)5664128  
daniel@castalegal.com  
Counsel for Petitioner-Plaintiff