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'26CV2350 RSH MMP

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

10 **Dylan Adolfo Matheu-Yancor**

CASE NO. 

11 **Petitioner,**

**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

12 **vs.**

CHALLENGE TO UNLAWFUL
INCARCERATION; REQUEST FOR
DECLARATORY AND INJUNCTIVE
RELIEF

13 **CHRISTOPHER J. LAROSE, Senior**
14 **Warden, Otay Mesa Detention Center;**
15 **PATRICK DIVVER, Field Office**
16 **Director, San Diego Office of Detention**
17 **and Removal, U.S. Immigration and**
18 **Customs Enforcement; TODD M.**
19 **LYONS, Acting Director, U.S.**
20 **Immigration and Customs Enforcement,**
21 **U.S. Department of Homeland Security;**
22 **and MARKWAYNE MULLIN, Secretary, U.S.**
23 **Department of Homeland Security,**

24 **Respondents.**

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28 **PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

1 Petitioner Dylan Adolfo Matheu-Yancor petitions this Court for a writ of habeas corpus
2 under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

3 **INTRODUCTION**

4 1. Petitioner Dylan Adolfo Matheu-Yancor ("Petitioner" or "Mr. Matheu-Yancor") is a
5 Guatemalan asylum seeker detained at Otay Mesa Detention Center in San Diego, California. He
6 fears persecution in Guatemala on account of becoming a target for local gangs. The persecution he
7 fears includes being harmed, kidnapped, tortured, and killed by organized criminal groups. He was
8 also abandoned and abused by his own father, and is eligible for Special Immigrant Juvenile Status.

9 2. Mr. Matheu-Yancor entered the United States on or about September 12, 2024, at or
10 near Hidalgo, Texas. Mr. Matheu-Yancor was designated as an unaccompanied minor when he
11 arrived, but when he turned 18 years old, he was detained. There is no direct evidence that he has
12 been de-designated as an unaccompanied minor. He was then released on his own recognizance.

13 3. As an unaccompanied minor, upon entry to the U.S., Mr. Matheu-Yancor was
14 transferred to the U.S. Department of Health and Human Service's Office of Refugee Resettlement
15 (ORR) and sent to an ORR youth shelter.

16 4. Respondents commenced removal proceedings against him in immigration court on
17 or around October 30, 2024, entitling him to present his asylum claim with the due process rights
18 under 8 U.S.C. § 1229a.

19 5. Since then, Petitioner has attended his immigration court hearings.

20 6. Respondents now seek to keep Mr. Matheu-Yancor detained without a meaningful
21 opportunity to seek a bond or custody redetermination hearing. *See* 8 U.S.C. § 1225. Respondents
22 do so based not on Mr. Matheu-Yancor's personal circumstances or individualized facts. Due to his
23 detention, Mr. Matheu-Yancor is at risk of being transferred away from the Southern District of
24 California while he remains in Respondents' physical and legal custody.

25 7. But Respondents cannot evade due process requirements so easily. The U.S.
26 Constitution requires the Respondents provide at least the rights available to him when he filed his
27 application for asylum.

28 8. The Constitution protects Mr. Matheu-Yancor—and every other person present in
this country—from arbitrary deprivations of his liberty and guarantees him due process of law. The
government's power over immigration is broad, but as the Supreme Court has declared, it "is
subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).

1 “Freedom from bodily restraint has always been at the core of the liberty protected by the Due
2 Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

3 9. Mr. Matheu-Yancor seeks declaratory and injunctive relief to compel his immediate
4 release from the immigration jail where he has been held by DHS since being unlawfully detained
5 on or about February 22, 2026, without first being provided a due process hearing to determine
6 whether his incarceration is justified.

7 10. Absent review in this Court, no other neutral adjudicator will examine Mr. Matheu-
8 Yancor’s plight: Respondents will continue—unchecked—to detain him unlawfully under 8 U.S.C.
9 § 1225(b)(1), INA § 235(b)(1), without due process.

10 11. For the reasons outlined below, Mr. Matheu-Yancor’s arrest and inability to contest
11 his arbitrary detention violate his statutory and constitutional rights, including Due Process
12 protections under the U.S. Constitution, as well as case law *Garcia Ramirez v ICE* and the resulting
13 injunction. Mr. Matheu-Yancor respectfully requests that this Court should grant the instant petition
14 for a writ of habeas corpus, without any bond requirement, and for declaratory and injunctive relief,
15 to prevent such harms from recurring. Mr. Matheu-Yancor also asks this Court to find that
16 Respondents’ attempts to detain, transfer, and deport him are arbitrary and capricious and in
17 violation of the law, and the injunction in *Garcia Ramirez v ICE*, and to immediately issue an order
18 preventing his transfer out of this district.

19 **JURISDICTION**

20 12. This action arises under the Constitution of the United States and the Immigration
21 and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq.*

22 13. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
23 U.S.C. § 1331 (federal question jurisdiction), art. I, § 9, cl. 2 of the United States Constitution
24 (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs
25 Act).

26 14. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens
27 challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003)
28 (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533
U.S. 678, 787 (2001) (same); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *3
(D. Or. July 9, 2025) (same); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL
2420068, at *7 (E.D. Cal. Aug. 21, 2025) (same).

1 removal, or protection under the Convention Against Torture after fleeing persecution in Guatemala
2 on account becoming a target for local gangs. He also qualifies for Special Immigrant Juvenile
3 Status as he was abused and abandoned by his father. The persecution he fears includes being
4 harmed, kidnapped, tortured, and killed by organized criminal groups. He has had no departures
5 since his arrival. He is not married. He has no children. He has no criminal convictions. Since the
6 detention on or about February 22, 2026, Mr. Matheu-Yancor has remained in Respondents’
7 custody.

8 21. Mr. Matheu-Yancor is currently residing in Respondents’ custody at Otay Mesa
9 Detention Center in San Diego, California, as of the time of the filing of this petition.

10 22. Respondent Christopher LaRose (“LaRose”) is the Senior Warden at Otay Mesa
11 Detention Center in San Diego, California, where Mr. Matheu-Yancor is detained. LaRose is
12 responsible for the day-to-day operations and confinement of non-citizens detained at that facility.
13 He acts at the direction of Respondents Divver, Lyons, and Mullin. LaRose is a custodian of Mr.
14 Matheu-Yancor and is named in his official capacity.

15 23. Respondent Patrick Divver (“Divver”) is the Field Office Director of ICE in San
16 Diego, California. He acts at the direction of Respondents Lyons and Mullin. ICE is responsible for
17 local custody decisions relating to non-citizens charged with being removable from the U.S.,
18 including the arrest, detention, custody status, and removal of non-citizens. The San Diego Field
19 Office’s area of responsibility includes San Diego and Imperial Counties in California. Respondent
20 Divver is a custodian of Mr. Matheu-Yancor and is named in his official capacity.

21 24. Respondent Todd Lyons (“Lyons”) is the Acting Director of ICE, and he has
22 authority over the actions of Respondents LaRose and Divver. ICE is responsible for local custody
23 decisions relating to non-citizens charged with being removable from the U.S., including the arrest,
24 detention, custody status, and removal of non-citizens. Respondent Lyons is a custodian of Mr.
25 Matheu-Yancor and is named in his official capacity.

26 25. Respondent Markwayne Mullin (“Mullin”) is the Secretary of DHS and has authority
27 over the actions of all other DHS Respondents in this case, as well as all operations and federal
28 agencies of DHS, including ICE. In his capacity as Secretary of DHS, Respondent Mullin is
29 charged with faithfully administering the immigration and naturalization laws of the United States.
30 8 U.S.C. § 1103(a). Respondent Mullin is a custodian of Mr. Matheu-Yancor and is named in his
31 official capacity.

1 26. Respondent ICE is responsible for local custody decisions relating to non-citizens
2 charged with being removable from the U.S., including the arrest, detention, custody status, and
3 removal of non-citizens.

4 27. Respondent DHS is the federal agency that has authority over the actions of ICE and
5 all other DHS Respondents.

6 28. This action is commenced against Respondents LaRose, Divver, Lyons, and Mullin
7 (collectively, "Respondents") all in their official capacities.

8 EXHAUSTION OF ADMINISTRATIVE REMEDIES

9 29. Petitioner has no administrative remedies to exhaust. For individuals like Mr.
10 Matheu-Yancor, DHS argues mandatory detention and thus no jurisdiction and the court agrees with
11 DIIS.

12 30. Mr. Matheu-Yancor received a NTA on October 30, 2024, which was then filed
13 before the before the Van Nuys Immigration Court to initiate his INA § 240 immigration
14 proceedings.

15 31. Mr. Matheu-Yancor is also challenging the unlawfulness of Respondents' decision to
16 detain him, independent of any decision made by any Immigration Judge in removal proceedings.

17 32. Therefore, a writ of habeas corpus is the sole avenue to vindicate Mr. Matheu-
18 Yancor's constitutional, statutory, and regulatory rights and restore his liberty.

19 LEGAL FRAMEWORK

20 33. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a
21 right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the
22 Refugee Act is to enforce the "historic policy of the United States to respond to the urgent needs of
23 persons subject to persecution in their homelands." Refugee Act of 1980, § 101(a), Pub. L. No. 96-
24 212, 94 Stat. 102 (1980).

25 34. The "motivation for the enactment of the Refugee Act" was the United Nations
26 Protocol Relating to the Status of Refugees, "to which the United States had been bound since
27 1968." *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a
28 legislative purpose "to give 'statutory meaning to our national commitment to human rights and
humanitarian concerns.'" *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

35. The Refugee Act established the right to apply for asylum in the United States and
defines the standards for granting asylum. It is codified in various sections of the INA.

1 36. The INA gives the Attorney General or the Secretary of Homeland Security
2 discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that
3 definition, individuals generally are eligible for asylum if they have experienced past persecution or
4 have a well-founded fear of future persecution on account of race, religion, nationality, membership
5 in a particular social group, or political opinions and if they are unable or unwilling to return to and
6 avail themselves of the protection of their homeland because of that persecution or fear. 8 U.S.C. §
7 1101(a)(42)(A).

8 37. Although a grant of asylum may be discretionary, the right to apply for asylum is
9 not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
10 physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).

11 38. Because of the life-or-death stakes, the statutory right to apply for asylum is robust.
12 The right necessarily includes the right to counsel, at no expense to the government, see 8 U.S.C. §§
13 1229a(b)(4)(A), 1362, the right to notice of the right to counsel, see 8 U.S.C. § 1158(d)(4), and the
14 right to access information in support of an application, see § 1158(b)(1)(B) (placing the burden on
15 the applicant to present evidence to establish eligibility.).

16 39. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment
17 to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

18 40. Noncitizens who are applicants for asylum are entitled to a full hearing in
19 immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent
20 with due process, noncitizens may seek administrative appellate review before the Board of
21 Immigration Appeals of removal orders entered against them and judicial review in federal court
22 upon a petition for review. 8 U.S.C. § 1252(a) *et seq.*

23 41. Asylum is not an admission to the United States and an applicant for asylum, while
24 they must be physically present in the United States to apply, need not apply for or seek admission
25 to the United States. *Matter of V-X-*, 26 I&N Dec. 147 (BIA 2013).

26 42. Moreover, following enactment of the IIRIRA, EOIR drafted regulations explaining
27 that, in general, non-citizens who entered the country without inspection were not considered
28 detained under 8 U.S.C. § 1225. See *Inspection and Expedited Removal of Aliens, Detention and
Removal of Aliens, Conduct of Removal Proceedings, Asylum Procedures*, 62 Fed. Reg. 10312,
10323 (Mar. 6, 1997). Rather, such non-citizens were instead detained under § 1226(a). See *id.*

1 43. Immigration detention should not be used as a punishment and should only be used
2 when, under an individualized determination, a noncitizen is a flight risk because they are unlikely
3 to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678,
4 690 (2001).

5 44. On January 20, 2025, President Donald Trump issued several executive actions
6 relating to immigration, including “Protecting the American People Against Invasion,” an executive
7 order (EO) setting out a series of interior immigration enforcement actions. The Trump
8 administration, through this and other actions, has outlined sweeping, executive branch-led changes
9 to immigration enforcement policy, establishing a formal framework for mass deportation. The
10 “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all
11 appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement
12 procedures including through the use of mass detention.

13 Furthermore, *Garcia Ramirez v. Immigration and Customs Enforcement* (ICE) is a
14 nationwide class action lawsuit in the District Court for the District of Columbia challenging the
15 practice of transferring children who arrive in the United States without parents or legal guardians
16 from the custody of the Department of Health and Human Services (HHS) to ICE-contracted jails
17 and prisons on their 18th birthdays, without considering less restrictive placements. In July 2020,
18 following more than two years of litigation culminating in an 18-day bench trial, the court ruled that
19 ICE’s failure to consider less restrictive settings before transferring unaccompanied immigrant
20 youth to ICE detention violates U.S. immigration laws. In its ruling, the district court found that the
21 U.S. government routinely and systematically fails to adhere to the statutory provisions that require
22 it to consider placement in the least restrictive setting available, and to provide meaningful
23 alternatives to detention as required by amendments to the Trafficking Victims Protection
24 Reauthorization Act (TVPRA). In September 2021, the court issued a permanent injunction in the
25 case barring ICE from violating the TVPRA, which requires ICE to consider placing
26 unaccompanied immigrant children in settings less restrictive than ICE detention as described in the
27 court’s accompanying opinion and setting forth a series of affirmative obligations. In its
28 accompanying memorandum opinion, the court pointed to ICE’s “pervasive violations” of the
29 TVPRA and explained that its decision to grant injunctive relief was in part based on ICE’s failure
30 to comply with the statute constituting “a pattern of agency recalcitrance and resistance to the
31 fulfillment of its legal duties. As part of the permanent injunction, for five years ICE must: • Re-

1 train its officers and revise its policies and handbook on how to make custody determinations when
2 youth in ORR custody turn 18 • Document its custody decisions on an “Age-Out Review
3 Worksheet” • Provide Age-Out Review Worksheets and monthly reports to class counsel.

4 45. On information and belief, Respondents are using the immigration detention system,
5 including extra-territorial transfer and detention, as a means to punish individuals for asserting
6 rights under the Refugee Act. On information and belief, Respondents have violated the injunction
7 set forth in *Garcia Ramirez v ICE*, and violated the TVPA, and have not fulfilled their legal duties
8 to Petitioner, a designated unaccompanied minor, in considering the least restrictive setting for
9 Respondent.

10 FACTUAL BACKGROUND

11 46. Petitioner is 19-year-old citizen and national of Guatemala.

12 47. Mr. Matheu-Yancor fears persecution in Guatemala on account of becoming a target
13 for local gangs. The persecution he fears includes being harmed, kidnapped, tortured, and killed by
14 organized criminal groups.

15 48. Petitioner traveled nine days via bus from Guatemala to the Southern Border where
16 he turned himself in to immigration officers. Petitioner was designated as an unaccompanied minor,
17 but he turned 18 years old whilst he was detained. While this occurred, Petitioner was released from
18 the detention facility on his own recognizance.

19 49. The DHS started this removal proceeding on or about October 30, 2024.

20 50. Respondents alleged he was inadmissible to the United States under 8 U.S.C. §
21 1182(a)(6)(A)(i) and commanded him to appear for a hearing on December 31, 2024, in the
22 immigration court in Van Nuys, California.

23 CAUSES OF ACTION

24 COUNT ONE

25 **Violation of Fifth Amendment Right to Due Process – Substantive and Procedural Due 26 Process, U.S. Const. Amend. V.**

27 51. Petitioner restates, realleges, and incorporates by reference each and every allegation
28 in the paragraphs above as if fully set forth herein.

52. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits
the federal government from depriving any person of “life, liberty, or property, without due process
of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States,

1 including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.”
2 *Zadvydas*, 533 U.S. at 693.

3 53. Due process requires that government action be rational and non-arbitrary. *See U.S.*
4 *v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

5 54. While asylum is a discretionary benefit, the right to apply is not. 8 U.S.C. §
6 1158(a)(1). Any noncitizen who is “physically present in the United States or who arrives in the
7 United States (whether or not at a designated port of arrival . . .), irrespective of such [noncitizen’s]
8 status, may apply for asylum.” *Id.*

9 55. Because the denial of the right to apply for asylum can result in serious harm or
10 death, the statutory right to apply is robust and meaningful. It includes the right to legal
11 representation, and notice of that right, *see id.* §§ 1229a(b)(4)(A), 1362, 1158(d)(4); the right to
12 present evidence in support of asylum eligibility, *see id.* § 1158(b)(1)(B); the right to appeal an
13 adverse decision to the Board of Immigration Appeals and to the federal circuit courts, *see id.* §§
14 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a decision
15 determining removability, *see id.* § 1229a(c)(6)-(7).

16 56. In sum, applying for asylum in removal proceedings comes with a panoply of greater
17 protections when compared with seeking asylum in expedited removal. *See Immigrant Defenders*
18 *Law Center v. Mayorkas*, 2023 WL 3149243, at *29 (C.D. Cal. Mar. 15, 2023) (“Individuals in
19 regular removal proceedings enjoy far more robust due process protections [than those in expedited
20 removal] because Congress has conferred additional statutory rights on them.”).

21 57. Moreover, Mr. Matheu-Yancor has a vital liberty interest in being free from DHS
22 custody. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July
23 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025)
24 (explaining that a non-citizen that ICE released from custody after initial apprehension “has a
25 substantial private interest in remaining out of custody” which includes an interest in “...obtaining
26 necessary medical care, [and] maintaining her relationships in the community...”).

27 58. Petitioner fled his father who abused and abandoned him, and fled severe gang
28 persecution and lawfully presented himself at the border, demonstrating both credibility and respect
for the legal process. While he has limited family ties in the United States, none are geographically
close enough to mitigate the burdens of detention. Accordingly, due process requires that Petitioner

1 be afforded a meaningful hearing to assess his liberty, including an individualized bond
2 determination.

3 **COUNT TWO**

4 **Violation of the Fourth Amendment of the Constitution**

5 59. Petitioner restates, realleges, and incorporates by reference each and every allegation
6 in the paragraphs above as if fully set forth herein.

7 60. The Fourth Amendment protects “[t]he right of the people to be secure in their
8 persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV. The Supreme
9 Court has recognized that immigration arrests and detentions are “seizures” within the meaning of
10 the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that
11 deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the
12 person).

13 61. The Fourth Amendment requires that arrests entail a neutral, judicial determination
14 of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial
15 determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in
16 the form of a prompt judicial probable cause determination. *See id.* Arrest and detention of a person,
17 including of a noncitizen, absent a neutral judicial determination of probable cause violates the
18 Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44,
19 57 (1991). This determination must occur within 48 hours of detention, which includes weekends,
20 unless there is a bona fide emergency or other extraordinary circumstances. *See Cnty. of Riverside*
21 *v. McLaughlin*, 500 U.S. 44, 57 (1991). This did not happen in petitioner’s case.

22 62. Congress enacted a strong preference that immigration arrests be based on warrants.
23 *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act
24 thus provides immigration officers with only limited authority to conduct warrantless arrests. 8
25 U.S.C. § 1357(a)(2). Federal regulations track the strict limitations on warrantless arrests. *See* 8
26 C.F.R. § 287.8(c)(2)(ii).

27 63. Mr. Matheu-Yancor, at the moment of his arrest and detention by Respondents, did
28 not receive any judicial determination of probable cause for his arrest or continued detention by
Respondents.

64. The Government cannot salvage this seizure by invoking generalized immigration
enforcement interests. The Fourth Amendment’s reasonableness inquiry is fact-specific and

1 demands individualized justification for both the arrest and the extended detention. *See United*
2 *States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114. Mr. Matheu-
3 Yancor does not pose any danger to any person in the community at large.

4 65. Respondents’ warrantless arrest of Mr. Matheu-Yancor constitutes an unreasonable
5 and unlawful seizure in violation of the Fourth Amendment.

6 **COUNT THREE**

7 **Violation of Fifth Amendment Right to Due Process – Procedural Due Process, U.S. Const.**
8 **Amend. V.**

9 66. Petitioner restates, realleges, and incorporates by reference each and every allegation
10 in the paragraphs above as if fully set forth herein.

11 67. The government may not deprive a person of life, liberty, or property without due
12 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,
13 detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause
14 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

15 68. Mr. Matheu-Yancor has a fundamental interest in liberty and being free from official
16 restraint.

17 69. The government’s detention of Petitioner without a notice or an opportunity to be
18 heard before detention violates his right to due process.

19 70. The government’s detention of Petitioner without a meaningful bond and custody
20 redetermination hearing to determine whether he is a flight risk or danger to others violates his right
21 to due process.

22 **COUNT FOUR**

23 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with**
24 **Law and in Excess of Statutory Authority Violation of 8**

25 **C.F.R. § 239.2(c)**

26 71. Petitioner restates, realleges, and incorporates by reference each and every allegation
27 in the paragraphs above as if fully set forth herein.

28 72. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in
accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction
authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. §
706(2)(A)-(D).

1 73. Once a removal proceeding has been initiated, regulations enumerate the reasons for
2 which proceedings may be dismissed at 8 C.F.R. § 239.2(a). In considering a motion to dismiss, the
3 Immigration Judge must make “an informed adjudication . . . based on an evaluation of the factors
4 underlying the [DHS] motion.” *Matter of G-N-C-*, 22 I&N Dec. 281, 284 (BIA 1998).

5 74. It is a well-established administrative principle that “agency action taken without
6 lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1,
7 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see also*
8 *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency
9 action because it was taken by unauthorized official).

10 75. Under the APA, an agency must provide “reasoned explanation for its action” and
11 “may not depart from a prior policy sub silentio or simply disregard rules that are still on the
12 books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). At the time of his
13 detention, Mr. Matheu Yancor had been released from DHS custody for about 4 months. On
14 information and belief, Respondents’ intent was to eliminate the due process rights available to
15 Petitioner in removal proceedings under section 240 of the INA, deprive him of his liberty interest
16 despite no evidence of material changed circumstances, or for some other purposes not supported by
17 law. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *5 (N.D. Cal. July 24,
18 2025) (“Detention for its own sake, to meet an administrative quota, or because the government has
19 not yet established constitutionally required pre-detention procedures is not a legitimate government
20 interest.”).

21 76. In deciding to detain Mr. Matheu-Yancor, Respondents further violated the APA by
22 “entirely fail[ing] to consider an important aspect of the problem” – namely, the important
23 procedural rights that Petitioner relied on in § 1229a immigration court proceedings. *See Motor*
24 *Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *see also*
25 *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-33 (2020) (holding
26 that rescission of immigration policy without considering “particular reliance interests” is arbitrary
27 and capricious in violation of the APA).

28 77. The arbitrary and capricious detention of Mr. Matheu-Yancor was not made in
furtherance of an enumerated reason set forth in the regulations and causes Mr. Matheu-Yancor
irreparable harm. For these reasons, the Court should find that the decision to detain Mr. Matheu-

1 Yancor is arbitrary, capricious, and unsupported by substantial evidence. *See* 5 U.S.C. § 706(2)(A),
2 (E).

3 **COUNT FIVE**

4 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with
5 Law and in Excess of Statutory Authority, Unlawful Detention**

6 78. Petitioner restates, realleges, and incorporates by reference each and every allegation
7 in the paragraphs above as if fully set forth herein.

8 79. Under the APA, a court shall “hold unlawful and set aside agency action...” that is
9 “...(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B)
10 contrary to constitutional right, power, privilege, or immunity...” 5 U.S.C. § 706(2)(A)-(B).

11 80. An action is an abuse of discretion if the agency “entirely failed to consider an
12 important aspect of the problem, offered an explanation for its decision that runs counter to the
13 evidence before the agency, or is so implausible that it could not be ascribed to a difference in view
14 or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644,
15 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463
16 U.S. 29, 43 (1983)).

17 81. To survive an APA challenge, the agency must articulate “a satisfactory explanation”
18 for its action. “including a rational connection between the facts found and the choice made.” *Dep’t*
19 *of Com. v. New York*, 588 U.S. 752, 773 (2019) (citation omitted).

20 82. The INA provides that Respondents may release an individual from apprehension or
21 custody based on an individualized determination of their danger and flight risk. *See* 8 U.S.C. §
22 1226(a); *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). After such a
23 release decision is made, a revocation of the custody determination may be made only when
24 warranted by an individual’s specific facts and circumstances. 8 U.S.C. § 1226(b); 8 C.F.R. §
25 1236.1(c)(9).

26 83. In *Y-Z-H-L v Bostock*, 2025 WL 1898025, at *10-12 (D. Or. July 9, 2025), the Court
27 explained the process of discretionary release from custody in immigration cases and noted that
28 before revoking the release, the non-citizen must be given written notice of the impending
29 revocation, which must include a cogent description of the reasons. Under the APA, non-citizens
30 are entitled to determinations related to their release revocations that are not arbitrary, capricious or
31 an abuse of discretion. *See id.* at *10.

1 84. By categorically revoking Mr. Matheu-Yancor’s release from DHS custody, and
2 detaining him without notice or consideration of his individualized facts and circumstances,
3 Respondents have violated the INA, implementing regulations, and the APA.

4 85. On information and belief, by detaining Mr. Matheu-Yancor categorically and
5 without notice, Respondents have further abused their discretion because, since the agency made its
6 initial custody determination, on information and belief, there have been no changes to Mr. Matheu-
7 Yancor’s specific facts or circumstances that support his detention or the revocation of his release
8 from custody on her own recognizance.

9 86. On information and belief, there have been no changes to the facts of Mr. Matheu-
10 Yancor’s proceedings that justify this revocation of his release from DHS custody.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- 13 (1) Assume jurisdiction over this matter;
- 14 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition
15 should not be granted within three days;
- 16 (3) Declare that Petitioner’s detention without an individualized determination violates
17 the Due Process Clause of the Fifth Amendment;
- 18 (4) Declare that refusal to allow Petitioner a meaningful bond and custody
19 redetermination hearing violates the INA, APA, and Due Process; and potentially violates
20 the injunction in *Garcia Ramirez v ICE*
- 21 (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
22 custody;
- 23 (6) Issue an Order prohibiting the Respondents from transferring Petitioner from this
24 district without the Court’s approval;
- 25 (7) Issue an Order requiring Respondents to provide a bond and custody redetermination
26 hearing within 14 days to meaningfully consider his eligibility for release from DHS
27 custody;
- 28 (8) Grant such further relief as the Court deems just, equitable, and appropriate; and
- (9) Grant any and all other further relief this Court deems just or proper.

1 Dated: April 13, 2026

Respectfully submitted,

2
3 //s// David Szeles, Esq.

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