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Detained

<p>UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA SAN DIEGO DIVISION</p> <p>WILKENS BOSSOUS, Petitioner,</p> <p>v.</p> <p>CHRISTOPHER J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center; THE SAN DIEGO FIELD OFFICE DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, in his or her official capacity; TODD BLANCHE, in his official capacity as Acting Attorney General of the United States; and MARKWAYNE MULLIN, in his official capacity as Secretary of the U.S. Department of Homeland Security,</p> <p>Respondents.</p>	<p>Case No.: '26CV2432 AGS DEB</p> <p>Hon.:</p> <p>PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF POINTS AND AUTHORITIES</p> <p>EMERGENCY REQUEST FOR RELEASE OR, IN THE ALTERNATIVE, FOR A PROMPT INDIVIDUALIZED CUSTODY HEARING</p>
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Petitioner Wilkens Bossous, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 challenging his ongoing immigration detention at Otay Mesa Detention Center. This petition asks the Court to determine whether Respondents may continue holding Mr. Bossous without an individualized custody hearing where the government's own records materially conflict on the threshold facts underlying his detention classification, where he was indisputably issued an I-94 reflecting parole under class DT after inspection at Brownsville, Texas, and where the Immigration Judge denied bond jurisdiction solely

on the theory that Petitioner reverted to section 235 detention under Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025).

Mr. Bossous is a Haitian national who entered through the CBP One process on or about February 1, 2024. The documents submitted with this petition include an I-94 showing a February 1, 2024 issuance date, class of admission “DT,” and an admit-until date of January 30, 2025; and a Notice to Appear charging him as an arriving alien who applied for admission at the Brownsville, Texas Port of Entry on that same date. Those contemporaneous records are difficult to reconcile with the later Form I-213 prepared after his January 19, 2026 arrest near Golden Acorn Casino, which instead alleges that he admitted entering “illegally afoot” and that he was not inspected at a designated port of entry. On April 10, 2026, the Immigration Judge denied custody redetermination for lack of jurisdiction, adopting the government’s position that Petitioner is subject to mandatory detention under section 235(b)(2)(A).

At minimum, the Constitution and the immigration statutes do not permit the government to deprive Petitioner of liberty indefinitely based on an internally inconsistent paper record, without any neutral adjudicator ever testing the factual premise for the claimed mandatory-detention regime and without any individualized determination that he poses either a danger or a flight risk. Mr. Bossous has strong equities: stable family ties, sustained work history, residence in San Diego, church support, no criminal record, and a demonstrated history of compliance with civil life in the United States. The Court should order his immediate release or, at minimum, require a prompt individualized custody hearing before a neutral decisionmaker.

JURISDICTION AND VENUE


1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution, laws, or treaties of the United States.
2. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act (“INA”), the Administrative Procedure Act (“APA”), and the Fifth Amendment to the United States Constitution.
3. Venue is proper in the Southern District of California under 28 U.S.C. § 1391(e) because Petitioner is detained at Otay Mesa Detention Center in San Diego County and the challenged custody decisions are being carried out in this District.
4. Habeas jurisdiction remains available to challenge the statutory and constitutional basis for immigration detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).

PARTIES

5. Petitioner WILKENS BOSSOUS is a native and citizen of Haiti who is presently detained at Otay Mesa Detention Center.
6. Respondent CHRISTOPHER J. LAROSE is sued in his official capacity as the Warden of Otay Mesa Detention Center and is Petitioner’s immediate custodian.
7. Respondent THE SAN DIEGO FIELD OFFICE DIRECTOR, U.S. Immigration and Customs Enforcement, is sued in his or her official capacity because that office oversees local enforcement and custody decisions affecting Petitioner.

8. Respondent TODD BLANCHE is sued in his official capacity as Acting Attorney General of the United States.
9. Respondent MARKWAYNE MULLIN is sued in his official capacity as Secretary of the U.S. Department of Homeland Security.

STATEMENT OF FACTS

10. Mr. Bossous is a Haitian national. He entered the United States on or about February 1, 2024 through the CBP One process in Brownsville, Texas. He was inspected and granted parole, and he was issued an I-94. The I-94 submitted with this petition reflects class of admission “DT,” an arrival/issued date of February 1, 2024, and an admit-until date of January 30, 2025.
11. The Notice to Appear issued on February 1, 2024 charges Petitioner as an arriving alien and alleges that, on or about February 1, 2024, he applied for admission to the United States at the Brownsville, Texas Port of Entry. The same NTA charges removability under INA § 212(a)(7)(A)(i)(I).
12. Petitioner is married and is the father of a three-year-old daughter,  The records submitted in support of this petition include the permanent resident card of Anne Megane Christ Francois, Petitioner’s spouse. After entering the United States, Petitioner lived with his wife and child in Florida for approximately nine months.
13. In or about November 2024, Petitioner relocated to San Diego after Pastor Willey Jean offered to help him secure housing and employment. Petitioner moved to San Diego in order to work and better support his family.
14. Since relocating, Petitioner has been consistently employed as a full-time delivery driver. His life in San Diego has centered on work and church, reflecting stability, rootedness, and community ties.
15. On January 19, 2026, at approximately 3:38 p.m., Petitioner was stopped by U.S. Border Patrol officers near the Golden Acorn Casino while returning from a delivery. He fully cooperated, did not resist, and did not attempt to flee. He was nonetheless taken into custody even though he was not engaged in criminal conduct and has no criminal history.
16. The government’s later Form I-213 materially conflicts with the contemporaneous entry records. On page 4, the I-213 lists a “Date, Place, Time, and Manner of Last Entry” of “02/01/2024, 0800, 1 mile(s) A of BRO, PWA (AFOOT)” and lists “Status at Entry” as “PWA Mexico.” On page 6, the same I-213 alleges that Petitioner admitted he was “without proper immigration documents” and that he “was not inspected by an Immigration Officer at a designated Port of Entry when he entered the United States illegally afoot on February 1, 2024.” Those allegations do not match the I-94 or the NTA that DHS itself issued in February 2024.
17. The I-213 further states that Petitioner “claimed no fear of torture or persecution if returned to Haiti,” but the record does not indicate that he was afforded counsel before making statements or that any neutral decisionmaker tested the reliability of the later narrative against the earlier parole documents.
18. On April 10, 2026, the Immigration Judge denied custody redetermination for lack of jurisdiction. The order states that Respondent is “an arriving alien at a port of entry on Feb 1, 2024 and is

subject to mandatory detention pursuant to INA sec. 235(B)(2)(A),” and further states that Petitioner “was initially paroled, but that was revoked, so reverts to prior status pursuant to Matter of Q LI, 29 I&N Dec. 66 (BIA 2025).” No bond was set and no individualized finding was made that Petitioner presents danger or flight risk.

19. Petitioner has established residence, employment, and community support in San Diego. He does not present a danger to the community or a flight risk. He intends to appear for all court hearings and comply with any conditions imposed by this Court or by immigration authorities.

LEGAL STANDARD

“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention must therefore rest on a valid statutory basis and must comport with the Constitution. See *id.*; *Clark v. Martinez*, 543 U.S. 371, 381 (2005).

Respondents rely on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and the Immigration Judge adopted that rationale in denying jurisdiction over Petitioner’s bond request. But *Q. Li* addressed a circumstance in which the respondent was treated as an applicant for admission who was arrested while arriving in the United States and later returned to custody after parole ended. *Q. Li* does not answer the threshold question presented here: whether the government may continue detaining a person without a custody hearing when the government’s own official records conflict on whether he was inspected and paroled at a port of entry or entered unlawfully afoot and without inspection.

At minimum, habeas relief is appropriate where detention rests on a legally or factually erroneous premise, or where the government refuses to provide a constitutionally adequate process for testing the basis of confinement. As relief, this Court may order immediate release or may require a prompt individualized hearing before a neutral adjudicator. See *Zadvydas*, 533 U.S. at 687–88.

COUNT I

UNLAWFUL DETENTION IN VIOLATION OF THE INA AND THE FIFTH AMENDMENT

20. Petitioner re-alleges and incorporates by reference paragraphs 1 through 19 as though fully set forth herein.
21. The government’s detention theory depends on treating Petitioner as a person properly confined under INA § 235(b) without eligibility for bond. Yet DHS’s own records do not present a single coherent account of Petitioner’s entry. The February 1, 2024 I-94 shows parole under class DT after inspection, and the February 1, 2024 NTA alleges application for admission at the Brownsville Port of Entry. The January 2026 I-213, by contrast, asserts an unlawful afoot entry and lack of inspection.
22. Where liberty turns on which of these mutually inconsistent official records is true, due process requires more than detention by administrative assertion. The government cannot rely on the later narrative to extinguish access to a custody hearing without first providing a meaningful mechanism to test the disputed factual predicate for mandatory detention.
23. Petitioner’s continued detention without that process violates the Fifth Amendment and exceeds the lawful detention authority available under the INA.

COUNT II

CONTINUED DETENTION WITHOUT AN INDIVIDUALIZED CUSTODY HEARING VIOLATES PROCEDURAL DUE PROCESS

24. Petitioner re-alleges and incorporates by reference paragraphs 1 through 23 as though fully set forth herein.
25. Even if Respondents are correct that section 235 supplies the default detention framework, the Constitution still does not permit continued detention on the basis of a contested record without any individualized determination by a neutral decisionmaker addressing risk of flight, danger, and the reliability of the underlying detention classification.
26. The Immigration Judge did not weigh Petitioner's actual circumstances. The court made no finding that he is dangerous, and no finding that he is likely to abscond. The order instead denied jurisdiction categorically. That left Petitioner in custody without any neutral adjudication of the facts that matter most to the deprivation of liberty.
27. Petitioner's equities are strong: he has a wife and young child, documented community ties, stable employment, church support, a fixed residence, and no criminal record. The Constitution requires a process capable of considering those facts before the government may continue depriving him of physical liberty.

COUNT III

ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE APA

28. Petitioner re-alleges and incorporates by reference paragraphs 1 through 27 as though fully set forth herein.
29. The APA requires courts to set aside agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).
30. Respondents acted arbitrarily by detaining Petitioner under a mandatory-detention theory without reconciling the conflict between the contemporaneous parole documents and the later I-213 narrative. An agency may not ignore record evidence that cuts against its chosen position, particularly where personal liberty is at stake.
31. Respondents further acted arbitrarily by continuing detention without any individualized explanation as to why less restrictive means—release on conditions, reporting requirements, or bond—would be insufficient in Petitioner's case.

COUNT IV

VIOLATION OF THE RIGHT TO FAMILY INTEGRITY

32. Petitioner re-alleges and incorporates by reference paragraphs 1 through 31 as though fully set forth herein.
33. The Fifth Amendment protects the integrity of the family unit. Petitioner's detention has separated him from his wife and his three-year-old daughter and has deprived the household of a working parent and regular caregiver.

34. Because Respondents continue to detain Petitioner without any individualized finding of danger or flight risk, the resulting burden on family integrity is not justified by a demonstrated governmental necessity in this case.

PRAYER FOR RELIEF

- A. Issue a writ of habeas corpus ordering Petitioner's immediate release from custody;
- B. In the alternative, order Respondents to provide Petitioner with a prompt individualized custody hearing before a neutral decisionmaker within seven (7) days, with a full opportunity to contest the factual basis for detention and to present evidence of family ties, employment, residence, and community support;
- C. Declare that Petitioner's continued detention without a constitutionally adequate custody determination violates the INA, the APA, and the Due Process Clause of the Fifth Amendment;
- D. Award costs and fees as permitted by law; and
- E. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Wismick Saint-Jean

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CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2026, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and all supporting exhibits was served through the Court's ECF system upon counsel for Respondents.

/s/ Wismick Saint-Jean

Wismick Saint-Jean, Esq.

Attorney for Petitioner