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

JAIDIVERT HURTADO-ANCHICO

Petitioner,

v.

WARDEN of Otay Mesa Detention
Facility; GREGORY J. ARCHAMBEAULT
*As San Diego Field Office Director of the
Immigration and Customs Enforcement,
Enforcement and Removal Operations;*
MARKWAYNE MULLIN, *as Secretary of
the U.S. Department of Homeland Security;*
and TODD BLANCHE, *as Attorney General
of the United States,*

Respondents.

'26CV2502 LL DDL

**PETITION FOR WRIT
OF HABEAS CORPUS**

I. INTRODUCTION

1. This petition for Writ of Habeas Corpus filed on behalf of Petitioner Jaidivert Hurtado-Anchico ("Petitioner") to remedy his unlawful detention.

2. Petitioner is a 25-year-old citizen of Colombia and the spouse of his United States citizen wife, Jennifer Maria Velasco Sanchez since October 2025. [See Exhibit A: "Certificate of Marriage and U.S. Passport of Spouse"].
3. On February 19, 2026, Petitioner was taken into custody and is currently detained at the Otay Mesa Detention Facility. Petitioner was arrested by Immigration and Customs Enforcement (ICE) agents near the San Diego and Mexico border. The Petitioner contends that his continued detention is in violation of the Fourth Amendment's safeguard against unreasonable seizures.
4. Petitioner is currently in removal proceedings and is seeking relief in Immigration Court as he is eligible for Asylum, Withholding of Removal and Convention Against Torture as he fears returning to his native country of Colombia. In addition, he is married to his United States citizen spouse and are seeking alternative options for relief.
5. On April 06, 2026, the Immigration Judge denied the Petitioner's Request for Habeas Corpus concluding that the Court did not have any authority to redetermine the custody status of the respondent and therefore, denied the respondent's request for bond. [See Tab B: "Immigration Judge's Decision dated 04/06/2026"]. Accordingly, the Petitioner respectfully requests that this Court order Respondents to provide him with a prompt and constitutionally adequate bond hearing before an Immigration Judge, or, in the alternative, to

release him from custody if such a hearing is not provided within a reasonable period.

6. This Court should be aware that the Petitioner was [REDACTED] assaulted while in the Custody of Immigration and Customs Enforcement shortly after being detained at the Chula Vista Border Patrol Station. The Petitioner immediately reported the incident to Immigration Agents, and he was provided with medical treatment at Pomerado Hospital in Poway, CA on February 24, 2026. [See Tab D: "Medical Record from Pomerado Hospital dated 02/24/2026"]. The Petitioner contends that this was a traumatizing incident [REDACTED]

[REDACTED] ICE has yet to provide the respondent with a report of the incident; however, a report from the Pomerado Hospital is being provided and the Petitioner is working with his attorney to formulate a declaration; however, the incident has been proven difficult for the Petitioner.

II. JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

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

III. VENUE

9. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district Otay Mesa Detention facility in Otay Mesa, California, which is within the jurisdiction of this District and the County of San Diego.
10. Venue is proper in this District because a substantial part of the events or omissions giving rise to this action occurred and continue to occur Otay Mesa Detention Facility in Otay Mesa, California. 28 U.S.C. § 1391(e).
11. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 2241 because Petitioner is in federal custody and challenges the statutory and constitutional validity of that detention. Federal courts retain jurisdiction to review claims that immigration detentions violate the Constitution or exceed statutory authority including claims arising under 8 U.S.C. § 1226(a).

IV. REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the

petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

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

V. PARTIES

13. Petitioner was arrested by ICE officers on February 19, 2026, and was transferred to Otay Mesa Detention Center where he is currently detained. He is in custody, and under the direct control, of Respondents and their agents.

14. The acting WARDEN of Otay Mesa Detention Facility has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent is a legal custodian of Petitioner.

15. Respondent GREGORY J. ARCHAMBEAULT is sued in his official capacity as the Acting Director of the San Diego Field Office of U.S.

Immigration and Customs Enforcement. Respondent Archambeault is a legal custodian of Petitioner and has authority to release him.

16. Respondent MARKWAYNE MULLIN is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Mullin is a legal custodian of Petitioner.

17. Respondent TODD BLANCHE is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

VI. EXHAUSTION OF REMEDIES

18. The Petitioner requested Custody Redetermination from the Immigration Court on March 30, 2026; however, the Immigration Judge denied bond due to lack of authority on April 06, 2026. It would be futile to request an exhaustion of remedies prior to seeking relief with the District Court if the

Immigration Judge and Board of Immigration Appeals cannot adjudicate a request for bond due to lack of authority. In *Matter of Yajure Hurtado*, the Board confirmed that, under *Yajure*, neither the Immigration Judge nor the Board has jurisdiction to adjudicate custody for individuals deemed “present without admission.”

19. Because the Immigration Judge found that they have no authority over custody redetermination, only this Court can meaningfully review Petitioner’s continued confinement and provide the relief the immigration system is no longer capable of offering.

20. No further administrative process exists to challenge his ongoing detention or to obtain the relief sought. Accordingly, the filing of this habeas corpus petition under 28 U.S.C. § 2241 is proper. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

VII. STATEMENT OF FACTS

22. Petitioner is a 25-year-old citizen and native of Colombia born on December 10, 2000.

23. Petitioner is married to his United States citizen spouse, Jennifer Maria Velasco Sanchez since October 2025 in Las Vegas, Nevada.

24. On February 19, 2026, the Petitioner was arrested by Immigration Agents near a casino in Chula Vista / El Cajon on interstate 8 and was stopped at a

checkpoint, he was arrested and detained for not having legal documents in the United States.

25. While detained at the Otay Mesa Detention Center the Petitioner was [REDACTED]

assaulted while in the custody of Immigration and Customs Enforcement shortly after being detained at the Chula Vista Border Patrol Station. The Petitioner immediately reported the incident to Immigration Agents, and he was provided with medical treatment at Pomerado Hospital in Poway, CA on February 24, 2026. [See Tab D: "Medical Record from Pomerado Hospital dated 02/24/2026"]. The Petitioner contends that this was a traumatizing incident [REDACTED]

[REDACTED] ICE has yet to provide the Petitioner with a report of the incident; however, a report from the Pomerado Hospital is being provided and the Petitioner is working with his attorney to formulate a declaration; however, the incident has been proven difficult for the Petitioner

26. ICE has not identified any exceptional circumstances warranting Petitioner's continued detention under ICE policy.

VIII. LEGAL FRAMEWORK

30. The Due Process Clause requires that the deprivation of Petitioners' liberty be narrowly tailored to serve a compelling government interest. See *Reno v.*

Flores, 507 U.S. 292, 301–02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”). As the Supreme Court held in *Zadvydas*, indefinite detention, and detention without adequate procedural protections, would raise a “serious constitutional problem” and run afoul of the Due Process Clause. 533 U.S. at 690.

31. INA §1226(a) authorizes the Attorney General to arrest and detain a noncitizen “pending a decision on whether the alien is to be removed.” Detention under § 1226(a) is discretionary and permits release on bond or conditional parole unless the person falls within the limited mandatory detention provisions of INA§ 1226(c). The Ninth Circuit has held that individuals detained under INA §1226(a) are entitled to individualized bond hearings where the government bears the burden to show, by clear and convincing evidence, that continued detention is justified by flight risk or danger. *Rodriguez v. Robbins*, 804 F.3d 1060, 1078 (9th Cir. 2015), vacated on other grounds, *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). When detention under § 1226(a) becomes prolonged, it must remain reasonably related to its purposes of ensuring appearance and protecting the community. See *Demore v. Kim*, 538 U.S. 510, 531 (2003); *Zadvydas v. Davis*, 533 U.S.

678, 690 (2001). Continued detention without a final order of removal, absent these justifications, is arbitrary, excessive, and violates the Due Process Clause.

32. On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025). The Board held that any noncitizen present in the United States without inspection or admission is subject to detention under INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)), rather than § 236(a) (8 U.S.C. § 1226(a)). This interpretation treats all such noncitizens as “applicants for admission” and places them in mandatory detention without bond eligibility before immigration judges.
33. The decision overruled longstanding agency practice that classified interior arrests of noncitizens who entered without inspection under INA § 236(a) (8 U.S.C. § 1226(a)), which permits discretionary release on bond or parole. Under *Yajure Hurtado*, only those noncitizens who have been formally “admitted,” as defined in INA § 101(a)(13)(A), retain bond eligibility.
34. The Central District of California has rejected DHS’s attempt to treat interior-arrest noncitizens as mandatory detainees under INA §1225(b). (*Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, TRO Order (C.D. Cal. July 28, 2025)). In *Maldonado Bautista v. Santacruz*, the court granted a Temporary Restraining Order enjoining DHS from detaining similarly situated

individuals without providing an individualized §1226(a) bond hearing, holding that DHS's reliance on INA §1225(b) for interior arrests was unconvincing and inconsistent with the statutory framework. *Id.* The court concluded that individuals arrested inside the United States and detained under § 1226(a) were being unlawfully deprived of the procedural protections guaranteed by that statute, including a bond hearing before a neutral adjudicator. *Id.*

IX. CLAIMS FOR RELIEF

a) COUNT ONE: VIOLATION OF IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(A)

36. Petitioner realleges and incorporates by reference the paragraphs above.

37. 8 U.S.C. § 1226(a) authorizes the Attorney General to arrest and detain a noncitizen “pending a decision on whether the alien is to be removed,” but expressly permits release on bond or conditional parole. This provision governs the detention of individuals, like Petitioner, who have not been ordered removed and whose proceedings remain pending.

38. Detention under INA §1226(a) must remain reasonably related to its purposes of ensuring appearance at removal proceedings and protecting the community. When those justifications no longer apply, continued custody exceeds the

scope of the statute. See *Demore v. Kim*, 538 U.S. 510, 529–31 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

39. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 830 (2018), distinguished between the discretionary detention authority in § 1226(a) and the mandatory detention provisions of § 1226(c). *Jennings* held that § 1226(a) allows for release on bond or conditional parole and does not itself impose mandatory custody. While the Court rejected the imposition of automatic, periodic bond hearings as a matter of statutory interpretation, it left open the constitutional question of whether prolonged detention without an individualized hearing violates due process. See *id.* at 851 (remanding to consider constitutional claims).

40. Subsequent courts have recognized that such prolonged detention without a hearing raises serious due process concerns. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021) (holding that due process requires the government to justify continued § 1226(a) detention by clear and convincing evidence of danger or by a preponderance of evidence of flight risk).

41. Petitioner is detained under 8 U.S.C. § 1226(a), which governs pre-final-order detention for individuals in ongoing removal proceedings. Respondents' continued detention of Petitioner without affording a bond hearing violates § 1226(a)'s plain language and structure. Detention under § 1226(a) must be

justified by legitimate governmental interests, however Respondents have not demonstrated that Petitioner presents a flight risk or danger to the community, making his continued detention is arbitrary, excessive, and contrary to law.

42. Petitioner has strong family and community ties in the United States, including one U.S.-citizen child. [See Tab C: “Letters of Support for Petitioner Jaidivert Hurtado-Anchico”]. His numerous letters of support describe him as a caring and loving person. *Id.* The Petitioner does have a minor criminal incident that occurred on July 26, 2025, where he was arrested and cited by Covina Police Department. The Petitioner contends that he was caught in his vehicle while parked and without keys at his apartment complex. He appeared in Court and was ordered to attend Alcoholics Anonymous classes. The Petitioner contends that he does not have any criminal history that bars him from relief and is not a danger to the community or a flight risk. Respondents’ refusal to provide such a hearing contravenes INA §1226(a)’s discretionary framework and exceeds the limited detention authority Congress provided.

43. Following *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), Respondents have adopted a blanket interpretation that classifies all noncitizens who entered without inspection as subject to mandatory detention under INA § 225(b), thereby denying bond eligibility to those properly detained under INA §1226(a). This interpretation is inconsistent with the

statute and longstanding practice, resulting in the unlawful denial of individualized bond determinations.

44. Accordingly, the Court should declare that Respondents lack statutory authority to detain Petitioner under INA § 1226(a) without providing a constitutionally adequate bond hearing and should order either (1) a prompt bond hearing before an Immigration Judge at which the government bears the burden of proof, or (2) Petitioner's release from custody pursuant to 28 U.S.C. § 2241.

b. COUNT TWO: VIOLATION OF FIFTH AMENDMENT DUE PROCESS CLAUSE

51. The allegations in the above paragraphs are realleged and incorporated herein.

52. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. "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. See *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. See *id.* at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid

purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.*; *Demore v. Kim*, 538 U.S. 510, 514–15, 528 (2003).

53. Courts have further held that prolonged detention under 8 U.S.C. § 1226(a) implicates due process and requires the government to justify continued confinement at a meaningful bond hearing. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021) (requiring the government to prove danger by clear and convincing evidence or flight risk by a preponderance of the evidence).

54. First, Petitioner does not pose a danger to the community. The government has offered no evidence that Petitioner poses a danger to the community or is likely to flee. To the contrary, Petitioner has deep family and community ties in the United States, including U.S.-citizen spouse and letters of support attesting to his character, integrity, and devotion as a husband and father. [See Tab C: “Letters of Support for Petitioner Jaidivert Hurtado-Anchico”]. He has no criminal convictions that render him a danger to the community and falls outside the mandatory-detention provisions of INA §1226(c).

55. Second, Petitioner does not pose a risk of flight. He has maintained a consistent residence and strong familial and community support network. *Id.* His U.S.C. Spouse, extended family, and community advocates depend on his presence, giving him every incentive to appear for his immigration

proceedings. *Id.* Petitioner has no history of failing to appear in Court, evading law enforcement, or absconding from supervision. He is currently working with his attorney to seek relief within the Immigration Court, further demonstrating his compliance with immigration procedures and his commitment to resolving his case lawfully through the judicial process. His family's reliance on him for financial and emotional support demonstrates stability, accountability, and deep roots in the community. *Id.* These factors establish that Petitioner can and will comply with any conditions of release set by the Court or an Immigration Judge.

56. For these reasons, Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment, and he must be immediately released. The Court should order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before an Immigration Judge, at which the Government bears the burden of demonstrating flight risk or danger.

c. COUNT THREE: REQUEST FOR ATTORNEY FEES

57. If he prevails, Petitioner requests attorney's fees and costs in the amount of \$5,000 under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412

X. PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter.
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
3. Declare that Petitioners' detention violates the Immigration and Nationality Act, Due Process Clause of the Fourth Amendment, Due Process Clause of the Fifth Amendment.
4. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
5. Enjoin Respondents from further unlawfully detaining Petitioners.
6. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioners from custody.
7. In the alternative, grant a writ of habeas corpus ordering Respondents to immediately release Petitioners from custody under reasonable conditions of supervision.
8. In the alternative, grant a writ of habeas corpus ordering Respondents to provide Petitioner with a prompt and individualized bond determination hearing pursuant to 8 U.S.C. § 1226(a), before a neutral Immigration Judge, at which the Government bears the burden of proving that Petitioner is a danger to the community by clear and convincing evidence or a flight risk by a preponderance of the evidence.
9. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law and
10. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/Patricia Boag
Patricia Boag, Esq.

Dated: April 20, 2026

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

I, PATRICIA BOAG, represent Petitioner, JAIDIVERT HURTADO-ANCHICO, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 20th day of April 2026.

/s/Patricia Boag

Patricia Boag, Esq.
Attorney For Jaidivert Hurtado-Anchico