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12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
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DOUGLAS NELSON HERRERA GUILLEN,

Petitioner,

vs.

FERETI SEMAIA, WARDEN OF THE
IMPERIAL REGIONAL ADULT
DETENTION FACILITY,

DAVID MARIN, DIRECTOR OF LOS
ANGELES FIELD OFFICE, U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT;

KRISTI NOEM, SECRETARY OF THE U.S.
DEPARTMENT OF HOMELAND
SECURITY; AND

PAM BONDI, ATTORNEY GENERAL OF
THE UNITED STATES,
IN THEIR OFFICIAL CAPACITIES,

Respondents

PETITION FOR WRIT OF HABEAS
CORPUS

Challenge to Unlawful Incarceration Under
Color of Immigration Detention Statutes;
Request for Declaratory and Injunctive Relief

Case No. 5:26-cv-1549

INTRODUCTION

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2 1. This case concerns the unlawful detention of a longtime interior resident of the
3 United States who has been denied any meaningful opportunity to seek release from immigration
4 custody.

5 2. Petitioner Douglas Nelson Herrera Guillen is a 49-year-old man who has lived
6 and worked in the United States for more than two decades. Since entering the country in 2002,
7 he has built his entire adult life here—working steadily, supporting his family, and becoming a
8 longstanding member of his community in Southern California. He has no criminal history. For
9 approximately twenty-four years he lived peacefully in the United States without incident.

10 3. On or about February 4, 2026, immigration authorities detained Mr. Herrera
11 Guillen, and he has remained in ICE custody ever since.

12 4. Although Mr. Herrera Guillen is a longtime interior resident who has lived in the
13 United States continuously since 2002, the Department of Homeland Security has treated him as
14 though he were subject to a no-bond detention framework, effectively denying him access to an
15 individualized bond hearing. Based on that legal conclusion, the government has refused to
16 permit any adjudicator to consider whether his detention is necessary to prevent flight or protect
17 the community.

18 5. That detention is unlawful.

19 6. This case exemplifies a troubling and increasingly widespread practice in
20 immigration detention: the government's use of a no-bond detention framework to detain
21 individuals who were arrested well inside the United States and have long resided here. By
22 reclassifying longtime interior residents as though they were categorically ineligible for release
23 on bond, the government effectively strips them of the individualized custody process Congress
24 required for post-entry detention.

25 7. Congress created a clear statutory framework governing immigration detention.
26 Individuals apprehended at the border during the inspection process may be detained under §
27 1225. But individuals already present in the United States and placed into ordinary removal
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1 proceedings are detained—if at all—under 8 U.S.C. § 1226(a), which provides for individualized
2 custody determinations and the possibility of release on bond. The government’s attempt to treat
3 a decades-long interior resident as though he were categorically ineligible for bond simply
4 because he entered without inspection disregards that statutory structure.

5 8. The consequences of that misclassification are profound. By applying a no-bond
6 framework, the government has foreclosed the very process Congress designed to protect against
7 erroneous detention—an individualized assessment of whether confinement is actually
8 necessary. Mr. Herrera Guillen has therefore remained incarcerated without any adjudicator ever
9 evaluating whether he poses a flight risk or a danger to the community.

10 9. Habeas corpus exists precisely to remedy this kind of unlawful detention. Because
11 Respondents have applied the wrong detention framework and deprived Petitioner of the
12 individualized custody determination required by law and the Constitution, his continued
13 detention cannot stand.

14 10. Mr. Herrera Guillen respectfully asks this Court to grant the writ, declare his
15 detention unlawful, and order his immediate release or, at minimum, a prompt custody
16 determination under the proper statutory framework.

17 JURISDICTION & VENUE

18 11. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in
19 custody under the authority of the United States and seeks a writ of habeas corpus. This Court
20 also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution,
21 laws, and treaties of the United States, and under 5 U.S.C. §§ 701–706 because Petitioner
22 challenges agency action that is arbitrary, capricious, and not in accordance with law.

23 12. This Court has authority to grant declaratory and injunctive relief pursuant to 28
24 U.S.C. §§ 2201–2202.

25 13. Neither 8 U.S.C. §§ 1252(b)(9) nor 1252(g) bar this Court’s review.

26 14. Section 1252(b)(9) is a “zipper clause” that channels review of final orders of
27 removal to the courts of appeals; it does not apply where, as here, no final removal order exists
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1 and the petitioner challenges only the statutory authority under which he is detained. *Reno v.*
2 *Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999). As the Supreme Court
3 explained in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), detention claims that raise “questions
4 of law”—including whether statutory provisions require detention without a bond hearing—do
5 not “arise from” removal proceedings and therefore fall outside § 1252(b)(9). *Id.* at 292–95. The
6 Ninth Circuit has repeatedly held that §§ 1252(a)(5) and (b)(9) do not preclude district-court
7 review of claims that are “independent of or collateral to the removal process,” including
8 challenges to unlawful or prolonged immigration detention. *J.E.F.M. v. Lynch*, 837 F.3d 1026,
9 1031–32 (9th Cir. 2016); *Martinez v. Napolitano*, 704 F.3d 620, 622 (9th Cir. 2012). Every
10 recent decision in this district addressing the exact § 1225/§ 1226 misclassification issue has
11 rejected the government’s § 1252(b)(9) argument for this same reason. See, e.g., *Monica Adriana*
12 *Ruiz Yarleque v. Noem*, No. 5:25-cv-02836-MEMF-SP, 2025 WL 3043936, at 5–7 (C.D. Cal.
13 Oct. 31, 2025); *Garcia v. Noem*, No. 5:25-cv-02771-ODW (PDX), 2025 WL 2986672, at 3–4
14 (C.D. Cal. Oct. 22, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMX), 2025
15 WL 2379285, at 1–2 (C.D. Cal. Aug. 15, 2025); *E.C. v. Noem*, No. 5:25-cv-02612-ODW (PDX),
16 at 3 (C.D. Cal. Oct. 28, 2025); *Vasquez Perdomo v. Noem*, 790 F. Supp. 3d 850, 884–85 (C.D.
17 Cal. 2025).

18 15. Section 1252(g) likewise poses no bar. The Supreme Court has held that §
19 1252(g) applies only to three discrete discretionary actions—commencing proceedings,
20 adjudicating cases, and executing removal orders—and does not cover legal challenges to the
21 scope of DHS’s detention authority. *Reno*, 525 U.S. at 482; *Jennings*, 583 U.S. at 294–96.
22 Petitioner challenges none of those actions. His claim is a “purely legal question” that does not
23 implicate any exercise of prosecutorial discretion, and district courts retain jurisdiction over such
24 claims. *United States v. Hovsepian*, 359 F.3d 1144, 1155 (9th Cir. 2004); *Ibarra-Perez v. United*
25 *States*, No. 24-631, 2025 WL 2461663, at *6 (9th Cir. Aug. 27, 2025). Consistent with this
26 binding authority, courts in this district have repeatedly held that § 1252(g) does not bar review
27 of claims alleging detention under the wrong statutory provision. *Ruiz Yarleque*, 2025 WL
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1 3043936, at 5–6; *Garcia*, 2025 WL 2986672, at 3; *Arrazola-Gonzalez*, 2025 WL 2379285, at 1;
2 *E.C.*, at 3. Accordingly, this Court has jurisdiction to hear and resolve this petition.

3 16. Venue is proper in the Central District of California under 28 U.S.C. § 1391(e)
4 because Petitioner is detained at the Desert View Detention Facility, located within this judicial
5 district, and because a substantial part of the events or omissions giving rise to this action
6 occurred in this district.

7 PARTIES

8 17. Petitioner DOUGLAS NELSON HERRERA GUILLEN is a noncitizen currently
9 detained by U.S. Immigration and Customs Enforcement at the Imperial Regional Adult
10 Detention Facility. He brings this petition pursuant to 28 U.S.C. § 2241 to challenge the legality
11 of his continued civil immigration detention.

12 18. Respondent FERETI SEMAIA is the Warden of the Imperial Regional Adult
13 Detention Facility, where Petitioner is currently detained. He has immediate custody over
14 Petitioner.

15 19. Respondent DAVID MARIN is the Director of the Los Angeles Field Office of
16 U.S. Immigration and Customs Enforcement (“ICE”). He exercises authority over the detention
17 and removal of noncitizens in the Los Angeles region, including Petitioner.

18 20. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland
19 Security (“DHS”), the federal agency responsible for immigration enforcement and detention.
20 She is sued in her official capacity.

21 21. Respondent PAM BONDI is the Attorney General of the United States and the
22 head of the U.S. Department of Justice, which oversees the Executive Office for Immigration
23 Review (“EOIR”) and immigration judges. She is sued in her official capacity.

24 REQUIREMENTS OF 28 U.S.C. § 2243

25 22. The habeas statute requires courts to act swiftly in reviewing unlawful detention.
26 Under 28 U.S.C. § 2243, the court must “forthwith” grant the writ or issue an order to show
27 cause unless it appears from the petition that the petitioner is not entitled to relief.
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23. If an order to show cause is issued, the statute directs that the respondent must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* This statutory framework underscores the urgency of habeas relief, reflecting the historic role of the Great Writ 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).

FACTUAL BACKGROUND

24. Douglas Nelson Herrera Guillen is a 49-year-old Salvadoran national who has lived and worked in the United States for more than two decades. He entered the United States without inspection in 2002 and has never left. Since that time, he has resided continuously in this country. For approximately twenty-four years, Mr. Herrera Guillen has built his life here; working steadily, supporting his family, and becoming a longstanding member of his community.

25. Mr. Herrera Guillen has no criminal history. He has worked steadily in the United States for many years and has been the primary financial provider for his household. He remains closely involved in the lives of his children, grandchildren, and extended family.

26. Mr. Herrera Guillen has also pursued immigration relief, including an asylum-based fear claim arising from violence in El Salvador. He fled after witnessing the killing of his grandfather and fearing for his life. He did not abandon his life in the United States, nor did he attempt to evade authorities. Instead, he continued to work, support his family, and contribute to his community.

27. On or about January 31, 2026, Mr. Herrera Guillen was detained by ICE in Southern California. After leaving a casino, he had fallen asleep in his car at a gas station when officers approached the vehicle and knocked on the window. Startled, Mr. Herrera Guillen initially believed he was being robbed. The officers then called out for Pedro Vazquez, his son-in-law, because the vehicle was registered to both Mr. Herrera Guillen and Mr. Vazquez. Mr. Herrera Guillen did not resist arrest. He called Mr. Vazquez and informed him that he was being

1 arrested. ICE did not provide Mr. Herrera Guillen with any paperwork at the scene. He has
2 remained in ICE custody since that time.

3 28. The Department of Homeland Security thereafter issued a Notice to Appear
4 placing Mr. Herrera Guillen in removal proceedings under section 240 of the Immigration and
5 Nationality Act and charging him under INA § 212(a)(6)(A)(i) as an individual present in the
6 United States without being admitted or paroled. The Notice to Appear does not classify him as
7 an arriving alien.

8 29. Mr. Herrera Guillen was not apprehended at a port of entry. He was not charged
9 as an arriving alien. He has lived continuously in the interior of the United States since 2002 and
10 has no criminal history. Nevertheless, when bond proceedings were initiated, the matter was not
11 resolved through an individualized bond determination. Instead, the bond records reflect that the
12 bond requests were withdrawn, and, according to Petitioner's family, the Immigration Judge
13 indicated that because he had entered without inspection, he had no right to release on bond.

14 30. The bond records further show that there were two bond hearings, both of which
15 were marked withdrawn rather than denied on the merits. Initially, both Mr. Herrera Guillen and
16 his daughter believed bond had been denied, but review of the record reflects that the hearings
17 were withdrawn instead.

18 31. Mr. Herrera Guillen is not a recent border crosser. He is not charged as an
19 arriving alien. He is a long-term interior resident who has lived in this country for approximately
20 twenty-four years. Yet he remains detained without any meaningful opportunity for an
21 individualized bond determination under a statutory framework that does not reflect his
22 circumstances.

23 **LEGAL FRAMEWORK**

24 **Section 1226(a)—Not Section 1225(b)—Governed When Petitioner Was Arrested in the** 25 **Interior**

26 32. Pre-final order detention is governed by two distinct INA provisions—8 U.S.C.
27 §§ 1225 and 1226—operating in separate spheres. The Supreme Court has emphasized that §
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1 1225 applies to “aliens seeking admission into the country,” whereas § 1226 applies to “aliens
2 already in the country pending the outcome of removal proceedings.” *Jennings v. Rodriguez*, 583
3 U.S. 281, 289 (2018). That division is dispositive here because Petitioner was not encountered at
4 the border or at a port of entry while “seeking admission,” but was arrested years after entry, in
5 the interior, following the government’s decision to place him into removal proceedings.

6 33. Section 1225’s text and structure confirm its border/inspection focus. Its
7 provisions repeatedly reference “arriving” noncitizens, “stowaways,” and actions by “examining
8 immigration officers,” reflecting Congress’s intent to regulate inspection and admission
9 processing—not interior apprehensions of long-time residents. See *Lepe v. Andrews*, 2025 WL
10 2716910, at *4 (E.D. Cal. Sept. 23, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY,
11 2025 WL 2676082, at *12–14 (D. Nev. Sept. 17, 2025). Critically, § 1225(b)(2)(A) applies by its
12 terms to an “alien seeking admission,” i.e., a present-tense inspection posture—not a person
13 living in the United States who was later arrested in the interior. Applying § 1225(b)(2)(A) to
14 interior arrests “pushes the statutory text beyond its breaking point.” *Lopez Benitez v. Francis*,
15 2025 WL 2371588, at *7 (S.D.N.Y. Aug. 13, 2025); see also *United States v. Gambino-Ruiz*, 91
16 F.4th 981, 988–89 (9th Cir. 2024) (rejecting theories that treat individuals as perpetual
17 “applicants” in a way that untethers the statutory scheme from the admission/inspection context).

18 34. Section 1226, by contrast, governs arrest-and-detention for people already inside
19 the United States pending removal proceedings—and it is expressly discretionary. It authorizes
20 arrest and detention “pending a decision on whether the alien is to be removed,” and permits
21 release on bond or conditional parole “except as provided in subsection (c).” 8 U.S.C. §
22 1226(a)(1)–(2). Implementing regulations provide for a bond hearing before an immigration
23 judge at which the detainee may present evidence regarding danger and flight risk. 8 C.F.R. §
24 1236.1(d); *In re Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *Martinez v. Clark*, 124 F.4th 775,
25 783 (9th Cir. 2024). This is the statutory framework Congress designed for post-entry custody
26 determinations—precisely Petitioner’s posture. See *Lopez Benitez*, 2025 WL 2371588, at *8;
27 *Lepe*, 2025 WL 2716910, at *5.

35. Text, structure, history, and canons confirm § 1226(a) is the default for inadmissible noncitizens arrested in the interior. Reading § 1225 to reach long-time residents apprehended inside the country would collapse Congress’s two-track scheme and contradict decades of agency practice applying § 1226(a) to inadmissible noncitizens already residing in the United States. See *Rodriguez v. Bostock*, 2025 WL 2782499, at *3 (W.D. Wash. Sept. 30, 2025); *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 n.6 (BIA 2025). It would also create serious surplusage problems—especially after Congress’s 2025 enactment of the Laken Riley Act, which added a narrow mandatory-detention carve-out in § 1226(c)(1)(E), confirming by negative implication that § 1226(a) remains the baseline for other interior arrests. See *Vazquez*, 2025 WL 2676082, at *19; *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *Corley v. United States*, 556 U.S. 303, 314 n.5 (2009). When Congress legislates against a settled administrative backdrop, courts presume the new provisions “work in harmony with what has come before,” not to silently upend the architecture. *Monsalvo Velazquez v. Bondi*, 145 S. Ct. 1232, 1242 (2025) (quotation omitted).

36. Consistent with those principles, district courts have rejected the government’s expansive § 1225 theory with near-total unanimity and have held that interior arrestees are detained under § 1226(a), not § 1225(b). See, e.g., *Chavez Valdovinos v. Noem*, No. 25-CV-2439 TWR (KSC) slip op. at 9 (S.D. Cal. Nov. 25, 2025); *Yohan Diaz-Villatoro v. LaRose*, 2025 WL 3251377, at *3–4 (S.D. Cal. Nov. 21, 2025); *Aparicio Sanchez v. Noem*, 2025 WL 3214987, at *3–4 (S.D. Cal. Nov. 18, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Benitez v. Noem*, No. 5:25-cv-02190 (C.D. Cal. Aug. 26, 2025) (minute order); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-

1 11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No.
2 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v.*
3 *Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*, No.
4 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*,
5 No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation
6 adopted 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Maldonado Bautista v. Santacruz*, No.
7 5:25-cv-01874-SSS-BFM, slip op. at *13 (C.D. Cal. July 28, 2025); *Oliveros v. Kaiser*, No. 25-
8 cv-07117-BLF, 2025 WL 2677125, at *4 (N.D. Cal. Sept. 18, 2025). No court has adopted the
9 government’s theory that § 1225(b)(2)(A) mandates detention for long-time residents arrested in
10 the interior.

11 37. In *Lazaro Maldonado Bautista et al. v. Santacruz*, the Central District of
12 California certified a Rule 23(b)(2) class of noncitizens subjected to this exact detention
13 regime—individuals apprehended in the interior, deemed “applicants for admission,” and
14 categorically denied bond eligibility based on DHS’s interpretation of § 1225(b)(2)(A). The
15 court recognized that DHS’s classification practice operates uniformly, binds immigration
16 judges, and systematically deprives noncitizens of the custody determinations Congress
17 preserved in § 1226(a). This Court therefore confronts not an isolated misapplication of the
18 statute, but an entrenched agency policy already adjudicated as suitable for classwide relief. *See*
19 *Order Granting Motion for Class Certification at 1–2, Lazaro Maldonado Bautista et al. v.*
20 *Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025) (certifying a Rule 23(b)(2)
21 “Bond Eligible Class” of noncitizens apprehended in the interior and denied bond eligibility
22 under § 1225(b)(2)(A) pursuant to DHS policy).

23 38. Accordingly, because Petitioner was arrested in the interior after twenty-four
24 years of residence in the United States, his detention is governed by § 1226(a)’s discretionary
25 framework—not § 1225(b)—and he is entitled to the individualized custody process that
26 framework presupposes. *See* 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 288–89; *Lepe*, 2025 WL
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2716910, at *4–5; *Lopez Benitez*, 2025 WL 2371588, at *7–8; *Vazquez*, 2025 WL 2676082, at *12–16.

Because § 1226(a) Governs, Petitioner Has a Liberty Interest and Due Process Rights, Including a Constitutionally Adequate Custody Hearing

39. This statutory distinction reflects fundamental constitutional limits on civil immigration detention and Congress’s recognition of the different due process rights afforded to those already inside the United States. “The relevant distinction ... is between persons inside the United States and persons outside the United States. That distinction is consistent with the long history of our immigration laws and with the Constitution.” *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO, 2025 WL 2716910, at *5 (E.D. Cal. Sept. 23, 2025) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). Once a person enters the country, “the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.*

40. Congress legislated against that constitutional backdrop. In distinguishing between “arriving” and “residing” noncitizens, Congress reflected “its understanding of longstanding due process precedent that recognizes the more substantial due process rights of noncitizens already residing in the U.S. [as compared to] those of noncitizens recently arriving.” *Vazquez v. Feeley*, No. 2:25-cv-01542-RFB-EJY, 2025 WL 2676082, at *4 (D. Nev. Sept. 17, 2025) (citing *Knauff v. Shaughnessy*, 338 U.S. 537 (1950)). That framework underscores why § 1226(a)’s discretionary, individualized custody process governs interior residents, while § 1225’s mandatory inspection detention is confined to the threshold-of-entry context.

41. Civil immigration detention, which is “nonpunitive in purpose and effect,” is constitutionally permissible only where it serves the narrow purposes of preventing flight or protecting the community—and only with adequate procedural safeguards. *Zadvydas*, 533 U.S. at 690; *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023). Extending § 1225(b)(2)(A)’s mandatory, unreviewable detention scheme to long-term residents arrested in the interior would contravene those constitutional limits. Courts confronting that theory have

1 rejected it as incompatible with due process. See *Romero v. Hyde*, 2025 WL 2403827, at *12–13
2 (D. Mass. Aug. 19, 2025); *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *9–10 (E.D. Mich.
3 Aug. 29, 2025).

4 42. Because Petitioner is detained within § 1226(a)’s discretionary civil-detention
5 regime, he has a profound liberty interest in freedom from confinement and a corresponding
6 right to a constitutionally adequate custody determination. The question is not whether the
7 government may ever detain a noncitizen pending removal proceedings; it is whether the
8 government may do so without the individualized process Congress prescribed in § 1226(a) and
9 the Constitution requires for persons already inside the United States.

10 43. The governing framework for determining what process is constitutionally
11 required before the government may deprive a person of liberty is the balancing test articulated
12 in *Mathews v. Eldridge*, 424 U.S. 319 (1976). The Ninth Circuit applies *Mathews* in the
13 immigration-detention context, and district courts throughout the Circuit routinely evaluate
14 prolonged civil detention and bond-hearing adequacy under that framework. See, e.g., *Diaz v.*
15 *Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022); *Jensen v. Garland*, No. 5:21-cv-01195-CAS-
16 AFM, 2023 WL 3246522, at *4 (C.D. Cal. May 3, 2023); *Hernandez v. Wofford*, No. 1:25-cv-
17 00986-KES-CDB (HC), 2025 WL 2420390, at *3 (E.D. Cal. Aug. 21, 2025); *Cordero Pelico v.*
18 *Kaiser*, No. 25-cv-07286-EMC, 2025 WL 2822876, at *6 (N.D. Cal. Oct. 3, 2025); *Naser Noori*
19 *v. Larose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025);
20 *Oliveros v. Kaiser*, No. 25-cv-07117-BLF, 2025 WL 2677125, at *7 (N.D. Cal. Sept. 18, 2025);
21 *O.P.A.M. v. Wofford*, No. 1:25-cv-01423, 2025 WL 3120552, at *9 (E.D. Cal. Nov. 7, 2025).

22 44. Under *Mathews*, the private interest here is at its apex: freedom from civil
23 confinement. The risk of erroneous deprivation is also substantial where the government detains
24 a long-time interior resident under a categorical detention theory that forecloses the
25 individualized custody determination Congress prescribed in § 1226(a) and its implementing
26 regulations. The government’s countervailing interests—preventing flight and protecting the
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community—are legitimate but are precisely the interests § 1226(a)’s custody process is designed to test through individualized adjudication.

45. That is the constitutional failure here. Although § 1226(a) presupposes an individualized custody determination based on danger and flight risk, Petitioner was denied meaningful access to that process. The Immigration Judge did not make individualized findings that Petitioner posed a danger or a flight risk. Instead, the bond proceedings were withdrawn after Petitioner was effectively treated as categorically ineligible for bond based on his entry without inspection, thereby depriving him of any meaningful individualized custody determination. The bond records reflect that there were two bond hearings, both marked “withdrawn,” rather than any adjudication on the merits of danger or flight risk. A civil detention regime cannot be reconciled with due process where it operates in practice as mandatory, unreviewable confinement for interior residents—particularly where Congress created a discretionary framework specifically to avoid that result.

46. Reflecting these principles, district courts across the country—including courts within this Circuit—have held that detaining interior residents under the wrong statute, thereby denying access to the § 1226(a) bond procedures Congress prescribed, violates due process under *Mathews*. See *Maldonado-Vazquez v. Feeley*, No. 5:24-cv-00452-SVW-PD, 2025 WL 2863421, at *10 (C.D. Cal. June 30, 2025); *Ruiz Yarleque v. Noem*, No. 5:25-cv-02836-MEMF-SP, 2025 WL 3043936, at *7–8 (C.D. Cal. Oct. 31, 2025); *Garcia v. Noem*, No. 5:25-cv-02771-ODW (PDx), 2025 WL 2986672, at *4–5 (C.D. Cal. Oct. 22, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285, at *2 (C.D. Cal. Aug. 15, 2025); *E.C. v. Noem*, No. 5:25-cv-02612-ODW (PDx), at *5 (C.D. Cal. Oct. 28, 2025); *Oliveros*, 2025 WL 2677125, at *7; *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110, at *4 (N.D. Cal. Sept. 3, 2025); *Noori*, 2025 WL 2800149, at *10; *Cordero Pelico*, 2025 WL 2822876, at *6; *O.P.A.M.*, 2025 WL 3120552, at *9.

47. In short: because Petitioner is a person inside the United States, his detention implicates a profound liberty interest protected by the Fifth Amendment. And because § 1226(a)

1 is the governing detention statute for interior residents like Petitioner, due process requires an
2 individualized custody determination—one that meaningfully tests whether continued civil
3 confinement is necessary to serve the government’s narrow interests in preventing flight or
4 protecting the community. Each day Petitioner is held without that constitutionally adequate
5 process is an ongoing deprivation of liberty.

6 **DHS’s Categorical Classification of Petitioner as Subject to Mandatory Detention Violates**
7 **Due Process**

8 48. The constitutional violation in this case is structural. Section 1226(a) presupposes
9 an individualized custody determination based on danger and flight risk. Due process requires no
10 less. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention implicates a
11 “fundamental” liberty interest); *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011)
12 (because of the “substantial liberty interest at stake,” due process requires robust procedural
13 protections in the custody context).

14 49. Petitioner has not received a meaningful bond hearing before an Immigration
15 Judge at which danger or flight risk could be assessed. Instead, the bond proceedings were
16 withdrawn after Petitioner was effectively treated as ineligible for release on bond based on his
17 entry without inspection. By treating Petitioner as categorically ineligible for bond, Respondents
18 foreclosed any opportunity for a neutral adjudicator to consider release under § 1226(a). See
19 *Jennings v. Rodriguez*, 583 U.S. 281, 300–01 (2018) (distinguishing the statutory detention
20 frameworks Congress created and recognizing that detention authority turns on the statute DHS
21 invokes); *Benyamin v. Santacruz*, No. 5:26-CV-00084-DOC-PVC, 2026 WL 127074, at *5
22 (C.D. Cal. Jan. 9, 2026).

23 50. A detention regime that renders a noncitizen categorically ineligible for any
24 individualized custody determination—based solely on a threshold legal misclassification—is
25 constitutionally indistinguishable from denying a bond hearing altogether. Where the
26 government refuses to permit consideration of danger or flight risk based on an erroneous
27 statutory classification, it nullifies the discretionary custody framework Congress prescribed in §
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1 1226(a) and replaces it with unreviewable confinement. See *Ding v. Janecka*, No. 5:25-CV-
2 03184-DOC-JDE, 2025 WL 3453957, at *5 (C.D. Cal. Nov. 28, 2025); *Mayoral v. Lyons*, No.
3 2:25-CV-10459-SSS-BFM, 2025 WL 3688816, at *6 (C.D. Cal. Nov. 5, 2025).

4 51. Civil immigration detention may be used only to serve narrow, nonpunitive
5 regulatory purposes, principally preventing flight and protecting the community, and the
6 Constitution requires procedures sufficient to avoid erroneous deprivation of liberty. See
7 *Zadvydas*, 533 U.S. at 690 (civil detention must remain tethered to permissible regulatory
8 purposes); *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (due process requires procedures
9 calibrated to the private interest and risk of erroneous deprivation); *Singh*, 638 F.3d at 1203–04.
10 Those purposes can be assessed only through individualized adjudication. When the government
11 detains a long-time interior resident under a categorical “no bond” theory that precludes any
12 consideration of those factors, detention ceases to operate as a civil regulatory measure and
13 instead functions as mandatory confinement without process. See *Benyamin*, 2026 WL 127074,
14 at *5; *Ding*, 2025 WL 3453957, at *5; *Mayoral*, 2025 WL 3688816, at *6.

15 52. Courts confronting this precise scenario have uniformly rejected it. Detaining
16 long-time interior residents under § 1225(b)—thereby denying access to § 1226(a)’s
17 discretionary custody framework—violates due process because it eliminates the very procedures
18 designed to guard against erroneous deprivation of liberty. See *Juan Carlos Gomez Pinzon v.*
19 *Fereti Semaia et al*, No. 5:25-CV-03517-DOC-MAA, 2025 WL 4231576, at *3 (C.D. Cal. Dec.
20 24, 2025); *Benyamin*, 2026 WL 127074, at *5; *Ding*, 2025 WL 3453957, at *5; *Mayoral*, 2025
21 WL 3688816, at *6; *Araujo-Contreras v. Janecka*, No. EDCV 25-03442-KK-MBK, 2025 WL
22 3771429, at *4 (C.D. Cal. Dec. 23, 2025); see also *Zadvydas*, 533 U.S. at 690.

23 53. That is exactly what has occurred here. Petitioner remains confined not because
24 the government has demonstrated that detention is necessary to prevent flight or protect the
25 community, but because DHS has foreclosed any opportunity for such a determination. Due
26 process does not tolerate that result. See *Mathews*, 424 U.S. at 335; *Zadvydas*, 533 U.S. at 690.

The Government Bears the Burden of Proof at Any Required § 1226(a) Custody Hearing

54. Although § 1226(a) does not expressly allocate the burden of proof at custody redetermination hearings—and the Board of Immigration Appeals has historically placed that burden on the noncitizen in ordinary § 1226(a) proceedings, see *In re Guerra*, 24 I. & N. Dec. 37 (BIA 2006); *In re Adeniji*, 22 I. & N. Dec. 1102, 1116 (BIA 1999)—courts within the Ninth Circuit have made clear that this regulatory allocation cannot control once a detainee has been denied the individualized process the Constitution requires. Where a constitutional violation has occurred, due process—not agency default rules—governs the remedial hearing. See *Singh v. Barr*, 400 F. Supp. 3d 1005, 1018 (S.D. Cal. 2019) (citing *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011)).

55. Under the Fifth Amendment, the government must justify continued civil immigration detention by clear and convincing evidence. *Singh v. Holder*, 638 F.3d at 1203–04 (explaining that the “substantial liberty interest at stake” requires the government to “prove by clear and convincing evidence that an alien is a flight risk or a danger to the community”); *Singh v. Barr*, 400 F. Supp. 3d at 1018; *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at *4–5 (N.D. Cal. Dec. 22, 2020); *Hernandez v. Wofford*, No. 1:25-cv-00986-KES-CDB (HC), 2025 WL 2420390, at *7–8 (E.D. Cal. Aug. 21, 2025). This heightened burden reflects the profound liberty interest at stake and is necessary to minimize the risk of erroneous deprivation of freedom.

56. The Ninth Circuit has acknowledged that *Singh* grounded its burden allocation in “general principles of procedural due process,” and it expressly declined to decide whether *Singh* “remains good law in any respect” after *Jennings*. *Diaz v. Garland*, 53 F.4th 1189, 1196, 1199, 1202 n.4 (9th Cir. 2022). At the same time, the Ninth Circuit has recognized—consistent with those principles—that when bond is available, the government bears the burden of establishing danger by clear and convincing evidence. See *Martinez v. Clark*, 124 F.4th 775, 785–86 (9th Cir. 2024) (noting that “the BIA properly noted that the government bore the burden to establish by

1 clear and convincing evidence that Martinez is a danger to the community” in the custody
2 context).

3 57. District courts within this Circuit have continued to apply the clear-and-
4 convincing, government-bears-the-burden rule where due process is the source of the hearing
5 right, including in misclassification, prolonged-detention, and remedial-hearing contexts. See
6 *Alejandri-Rodriguez v. Larose*, 2026 WL 526747, at *2 (S.D. Cal. Feb. 25, 2026); *Doe v.*
7 *Becerra*, 787 F. Supp. 3d 1083, 1089 (E.D. Cal. 2025); *Pinchi v. Noem*, 792 F. Supp. 3d 1025,
8 1038 (N.D. Cal. 2025); *Duong v. Kaiser*, --- F. Supp. 3d ---, 2025 WL 2689266, at *7–10 (N.D.
9 Cal. 2025); *Matute v. Wofford*, No. 1:25-cv-01206-KES-SKO (HC), 2025 WL 2495767, at *8
10 (E.D. Cal. Oct. 3, 2025); *Gonzalez Salazar v. Noem*, 2025 WL 3063629, at *6; *Ledesma*
11 *Gonzalez v. Noem*, 2025 WL 2841574, at *9.

12 58. Courts have likewise ordered that the government may not continue—or
13 resume—civil immigration detention absent proof, by clear and convincing evidence, that
14 detention is necessary to prevent flight or protect the community. See *Faizyan v. Casey*, No.
15 3:25-CV-02884-RBM-JLB, 2025 WL 3208844, at *8 (S.D. Cal. Nov. 17, 2025) (ordering
16 prompt individualized bond hearing at which government must justify detention by clear and
17 convincing evidence); *Pablo Sequen v. Albarran*, 2025 WL 2935630, at *1 (N.D. Cal. Oct. 15,
18 2025); *Sadeqi v. LaRose*, No. 25-CV-2587-RSH-BJW, 2025 WL 3154520, at *4 (S.D. Cal. Nov.
19 12, 2025); *Salazar v. Dedos*, 2025 WL 2676729, at *7–9 (D.N.M. Sept. 17, 2025).

20 59. Courts outside the Ninth Circuit concur that due process requires the government
21 to bear the burden of justifying continued detention by clear and convincing evidence when a
22 noncitizen has been denied a constitutionally adequate custody determination. See *Velasco Lopez*
23 *v. Decker*, 978 F.3d 842, 855–56 (2d Cir. 2020); *Ixchop Perez v. McAleenan*, 435 F. Supp. 3d
24 1055, 1062 (N.D. Cal. 2020); *Darko v. Sessions*, 342 F. Supp. 3d 429, 436 (S.D.N.Y. 2018);
25 *Brito v. Barr*, 415 F. Supp. 3d 258, 266 (D. Mass. 2019).

26 60. In sum, where—as here—the government has deprived Petitioner of the
27 individualized custody determination § 1226(a) presupposes and due process requires, the
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1 Constitution—not agency default rules—controls the remedial hearing. The government must
2 therefore prove, by clear and convincing evidence, that continued detention is necessary to
3 prevent flight or protect the community. Any lesser allocation would fail to cure the
4 constitutional violation and would perpetuate the risk of erroneous deprivation of liberty.

5 **Petitioner's Detention Serves No Legitimate Regulatory Purpose**

6 61. Civil immigration detention is constitutionally permissible only insofar as it
7 serves the government's limited regulatory interests in preventing flight and protecting the
8 community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Where detention does not
9 meaningfully advance those interests, continued confinement violates due process. *Id.*;
10 *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017).

11 62. Nothing about Mr. Herrera Guillen suggests that detention is necessary to serve
12 either purpose. He is a 49-year-old man who has lived in the United States since 2002, has no
13 criminal history, and was detained in the interior after ICE approached him while he was asleep
14 in his car at a gas station in Southern California. His long residence, stable community ties, and
15 lack of criminal history strongly indicate that he poses neither a danger to the community nor a
16 meaningful risk of flight. Yet because Respondents have treated him as categorically ineligible
17 for bond, no adjudicator has ever been permitted to consider those facts.

18 63. That categorical denial of process is precisely the type of erroneous deprivation
19 the Due Process Clause forbids.

20 **EXHAUSTION OF REMEDIES**

21 64. There is no statutory exhaustion requirement applicable to this habeas petition.
22 *McKart v. United States*, 395 U.S. 185, 193 (1969); *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th
23 Cir. 2004). Accordingly, any exhaustion requirement is prudential, not jurisdictional.

24 65. Prudential exhaustion is excused where (1) agency expertise is unnecessary, (2)
25 administrative review would be futile, or (3) the petitioner would suffer irreparable harm. *Puga*
26 *v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). Each of these factors supports waiver here.

1 66. Agency expertise is not necessary to resolve the question presented. Petitioner's
2 habeas claim turns on a pure question of law: whether his detention following an interior arrest is
3 governed by INA § 1225(b)(2)(A) or INA § 1226(a), and whether due process permits continued
4 detention without an individualized custody determination. There are no disputed facts relevant
5 to that inquiry. The Board of Immigration Appeals has no special competence to resolve
6 questions of habeas jurisdiction, constitutional due process, or the proper scope of federal
7 detention statutes. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024).

8 67. Administrative review would also be futile. Petitioner sought bond before the
9 Immigration Judge, but the bond proceedings did not result in any individualized custody
10 determination. Instead, the bond records reflect that there were two bond hearings and that both
11 were marked "withdrawn," not denied on the merits. According to Petitioner's family, the bond
12 requests were withdrawn because the Immigration Judge indicated that, as a person who entered
13 without inspection, Petitioner had no right to release on bond. Thus, rather than providing any
14 adjudication of danger or flight risk, the government effectively took the categorical position that
15 Petitioner was ineligible for bond at all. Where the agency charged with custody has foreclosed
16 access to the discretionary custody framework of § 1226(a) as a matter of law, no further
17 administrative process can result in an individualized custody determination. Under these
18 circumstances, exhaustion is futile.

19 68. Requiring further administrative exhaustion would serve no purpose because the
20 government has categorically foreclosed access to any individualized custody determination. The
21 government has not provided Petitioner with any meaningful bond adjudication before a neutral
22 adjudicator empowered to consider release and has instead treated him as ineligible for bond as a
23 categorical matter. Where the agency charged with custody has foreclosed access to § 1226(a)'s
24 discretionary custody framework altogether, no administrative tribunal can provide the
25 constitutionally required assessment of danger or flight risk. In such circumstances, exhaustion is
26 excused. See *Singh v. Holder*, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011); *Leonardo v. Crawford*,
27 646 F.3d 1157, 1160 (9th Cir. 2011).

69. Requiring exhaustion would also result in irreparable harm. Petitioner has already pursued the only available administrative mechanism to challenge his detention by seeking bond before the Immigration Judge, yet those proceedings resulted in no individualized findings and no meaningful neutral custody review. No administrative process exists that can provide prompt or meaningful review of Petitioner's detention. In the meantime, Petitioner remains detained without any opportunity for an individualized assessment of flight risk or danger. Each additional day of civil detention without access to a constitutionally adequate custody determination constitutes irreparable harm. See *Iraheta-Martinez v. Garland*, 12 F.4th 942, 949 (9th Cir. 2021); *Sola v. Holder*, 720 F.3d 1134, 1135 (9th Cir. 2013) (per curiam); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285, at *3 (C.D. Cal. Aug. 15, 2025); *Miri v. Bondi*, 2026 WL 622302, at *11 (C.D. Cal. Mar. 5, 2026); *Mumaev v. Semaia*, 2026 WL 530765, at *2 (C.D. Cal. Feb. 20, 2026); *Vazquez v. Feeley*, 2025 WL 2676082, at *10 (D. Nev. Sept. 17, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1254 (W.D. Wash. 2025).

70. Courts in this District and elsewhere routinely excuse exhaustion under these circumstances. Where, as here, detention turns on a pure question of law and the agency has effectively foreclosed any meaningful access to an individualized bond determination, further administrative review cannot provide effective relief. See *Arrazola-Gonzalez v. Noem*, No. 5:25-CV-01789-ODW (DFMX), 2025 WL 2379285, at *3 (C.D. Cal. Aug. 15, 2025) (waiving exhaustion where petitioners challenged the BIA's interpretation of the detention statute and continued detention without a bond hearing would cause irreparable injury); *Bedrosian v. Noem*, No. 5:25-CV-02814-KES, 2026 WL 127800, at *11 (C.D. Cal. Jan. 15, 2026) (waiving prudential exhaustion where requiring further administrative review would be futile and unable to provide the relief sought); *Mumaev v. Semaia*, No. 5:25-CV-03409-FLA (MAR), 2026 WL 530765, at *2 (C.D. Cal. Feb. 20, 2026) (recognizing that courts routinely waive exhaustion where continued detention without a bond hearing risks irreparable injury); see also *Hoyos Amado v. U.S. Dep't of Justice*, No. 25-cv-2687-LL (DDL), 2025 WL 3079052, at *3 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, No. 25-CV-2180-DMS-MMP, 2025 WL 2549431, at *4–5 (S.D.

1 Cal. Sept. 3, 2025); *Chavez Valdovinos v. Noem*, No. 25-CV-2439-TWR (KSC), slip op. at 9
2 (S.D. Cal. Sept. 25, 2025).

3 71. This case therefore presents a paradigmatic basis for excusing prudential
4 exhaustion. Petitioner sought bond before the Immigration Judge, but the bond proceedings were
5 withdrawn rather than adjudicated on the merits. The government has effectively taken the
6 position that no adjudicator has authority to consider his release on an individualized basis.

7 72. No further administrative process can provide the relief Petitioner seeks—an
8 individualized custody determination under § 1226(a). Habeas corpus under 28 U.S.C. § 2241 is
9 therefore the only adequate and appropriate remedy.

10 **CLAIMS FOR RELIEF**

11 **COUNT ONE**

12 ***(Unlawful Detention Under the Immigration and Nationality Act and the***
13 ***Administrative Procedure Act)***

14 73. Petitioner re-alleges and incorporates by reference all preceding paragraphs as
15 though fully set forth herein.

16 74. Petitioner is currently detained pursuant to an unlawful and unauthorized
17 application of 8 U.S.C. § 1225(b)(2)(A), despite being an interior resident of the United States
18 apprehended well after entry and placed into standard removal proceedings.

19 75. As set forth above, the Immigration and Nationality Act (“INA”) draws a clear
20 and dispositive distinction between individuals “seeking admission” at the border, whose
21 detention is governed by § 1225, and individuals already present in the United States pending
22 removal proceedings, whose detention is governed by § 1226. *Jennings v. Rodriguez*, 583 U.S.
23 281, 288–89 (2018).

24 76. Petitioner is not an “arriving alien” and was not apprehended while “seeking
25 admission” at a port of entry or during the inspection process. Instead, he was arrested in the
26 interior of the United States in Southern California after decades of continuous residence inside
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1 the United States and was subsequently placed into ordinary removal proceedings under INA §
2 240.

3 77. Because Petitioner was apprehended in the interior of the United States and is
4 already present in the country pending removal proceedings, the governing detention statute is 8
5 U.S.C. § 1226(a), which authorizes discretionary detention and provides for an individualized
6 custody determination before an immigration judge.

7 78. By classifying Petitioner as subject to mandatory detention under 8 U.S.C. §
8 1225(b)(2)(A), Respondents have applied the wrong statutory framework and have deprived
9 Petitioner of the custody procedures Congress provided for individuals detained under § 1226(a).

10 79. This misclassification exceeds the government's statutory detention authority
11 under the Immigration and Nationality Act and therefore renders Petitioner's continued detention
12 unlawful.

13 80. The government's detention of Petitioner under § 1225(b)(2)(A) is also agency
14 action that is "not in accordance with law," "in excess of statutory jurisdiction," and "in excess
15 of statutory authority" within the meaning of the Administrative Procedure Act, 5 U.S.C. §
16 706(2)(A)–(C).

17 81. Because Respondents lack statutory authority to detain Petitioner under §
18 1225(b), his continued detention is unlawful and must be set aside.

19 82. Petitioner is therefore entitled to relief in the form of a declaration that his
20 detention is governed by 8 U.S.C. § 1226(a) and an order requiring Respondents to provide a
21 prompt custody determination consistent with that statutory framework.

22 COUNT TWO

23 *(Violation of Fifth Amendment's Due Process Clause)*

24 83. Petitioner re-alleges and incorporates by reference all preceding paragraphs as
25 though fully set forth herein. The Due Process Clause protects all persons in the United States
26 from deprivation of liberty without constitutionally adequate procedures. Freedom from physical
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1 confinement lies at the core of the liberty interests safeguarded by the Constitution. *Zadvydas v.*
2 *Davis*, 533 U.S. 678, 690–93 (2001).

3 84. Civil immigration detention may be justified only for limited regulatory
4 purposes—principally preventing flight or protecting the community—and only when
5 accompanied by adequate procedural safeguards. *Id.* at 690; *Hernandez v. Sessions*, 872 F.3d
6 976, 991 (9th Cir. 2017).

7 85. Because Petitioner is detained pursuant to the discretionary detention framework
8 of 8 U.S.C. § 1226(a), due process requires an individualized custody determination evaluating
9 whether continued detention is necessary. The constitutional adequacy of the procedures
10 provided is assessed under the balancing framework articulated in *Mathews v. Eldridge*, 424 U.S.
11 319 (1976).

12 **Private Interest**

13 86. Petitioner’s private interest in freedom from civil confinement is at its apex.
14 Courts have consistently recognized that immigration detention inflicts profound liberty harms
15 by separating individuals from their families, homes, and livelihoods. *Zadvydas*, 533 U.S. at 690;
16 *Hernandez*, 872 F.3d at 993–95.

17 87. Douglas Nelson Herrera Guillen has lived in the United States for more than two
18 decades. He has worked continuously, supported his family, and built his life and community in
19 this country. His sudden detention has removed him from his family, disrupted the stability of his
20 household, and deprived him of the ability to continue supporting those who depend on him.
21 These are precisely the liberty interests the Fifth Amendment protects.

22 88. The first *Mathews* factor therefore weighs strongly in Petitioner’s favor.

23 **Risk of Erroneous Deprivation**

24 89. The risk of erroneous deprivation here is substantial because Petitioner has been
25 denied any meaningful individualized custody determination.

26 90. Petitioner was denied any meaningful individualized custody determination.
27 Rather than adjudicating danger, flight risk, family ties, employment history, or potential
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1 conditions of release, the bond proceedings were withdrawn after Petitioner was effectively
2 treated as categorically ineligible for bond based on his entry without inspection.

3 91. Detention based on such a categorical misclassification creates a substantial risk
4 of erroneous deprivation of liberty. Courts confronting this same practice have recognized that
5 classifying long-term interior residents under § 1225(b)—and thereby denying access to §
6 1226(a)’s custody procedures—creates an unacceptably high risk of error. See, e.g., *Ruiz*
7 *Yarleque v. Noem*, 2025 WL 3043936, at *7; *Garcia v. Noem*, 2025 WL 2986672, at *4–5;
8 *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285, at *2.

9 92. The value of an additional safeguard—an individualized custody determination
10 under § 1226(a)—is substantial. Such a proceeding is specifically designed to assess whether
11 detention is necessary and would significantly reduce the risk of erroneous deprivation present
12 here.

13 93. The second *Mathews* factor therefore weighs heavily in Petitioner’s favor.

14 **Government Interest**

15 94. The government’s interest in continuing to detain Petitioner without an
16 individualized custody determination is minimal. Civil immigration detention is justified only to
17 prevent flight or protect the community, yet neither interest has been evaluated here.

18 95. No adjudicator has determined that Petitioner poses a danger or a flight risk.
19 Instead, his continued detention rests solely on a legal classification that forecloses
20 individualized review.

21 96. Providing an individualized custody determination would impose little burden on
22 the government. Immigration judges regularly conduct custody hearings under § 1226(a), and the
23 government has no legitimate interest in avoiding procedures necessary to ensure compliance
24 with the Constitution. See *Cordero Pelico v. Kaiser*, 2025 WL 2822876, at *6.

25 97. Nor can the government claim a cognizable interest in avoiding procedures
26 required by federal law and the Constitution. The government “cannot reasonably assert that it is
27 harmed in any legally cognizable sense by being enjoined from constitutional violations.”
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1 *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983); see also *Rodriguez v. Robbins*, 715 F.3d 1127,
2 1145 (9th Cir. 2013).

3 98. The third *Mathews* factor therefore also weighs in Petitioner's favor.

4 **Balance of Factors**

5 99. Balancing the *Mathews* factors confirms that Petitioner's continued detention
6 without an individualized custody determination violates the Fifth Amendment. Petitioner's
7 liberty interest is profound, the risk of erroneous deprivation is substantial, and the government's
8 interest in avoiding individualized review is minimal.

9 100. By categorically denying Petitioner access to the custody procedures required
10 under § 1226(a), Respondents have deprived him of the constitutionally adequate process
11 required before the government may continue civil confinement.

12 101. Petitioner is therefore entitled to relief, including release from custody or, at
13 minimum, a prompt and constitutionally adequate custody determination that meaningfully
14 evaluates whether continued detention is necessary.

15 **COUNT THREE**

16 ***(Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2))***

17 102. Petitioner re-alleges and incorporates by reference all preceding paragraphs as
18 though fully set forth herein.

19 103. The Administrative Procedure Act ("APA") provides that a reviewing court must
20 "hold unlawful and set aside agency action, findings, and conclusions" that are "arbitrary,
21 capricious, an abuse of discretion, or otherwise not in accordance with law" or that are taken "in
22 excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(A), (C).

23 104. Respondents are unlawfully detaining Petitioner Douglas Nelson Herrera Guillen
24 pursuant to an unauthorized interpretation and application of 8 U.S.C. § 1225(b)(2)(A) to a
25 noncitizen apprehended in the interior of the United States, notwithstanding Congress's directive
26 that detention of such individuals is governed by 8 U.S.C. § 1226(a).

1 105. ICE determined that Petitioner is subject to mandatory detention under §
2 1225(b)(2)(A) and refused to refer him for a custody determination under § 1226(a). That
3 determination constitutes final agency action within the meaning of 5 U.S.C. § 704 because it
4 determines Petitioner's detention status and has immediate and continuing legal consequences.

5 106. Respondents' interpretation and application of § 1225(b)(2)(A) to Petitioner is
6 contrary to the text, structure, and purpose of the Immigration and Nationality Act. Section 1225
7 governs the inspection and detention of individuals "seeking admission," while § 1226 governs
8 detention of individuals already present in the United States pending a decision on removal.
9 *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018).

10 107. Petitioner was not encountered at a port of entry or during the inspection process.
11 He was arrested in the interior of the United States in Southern California after more than two
12 decades of continuous residence in the United States and placed into standard removal
13 proceedings. Nothing in the INA authorizes treating such an individual as an "applicant for
14 admission" subject to mandatory detention under § 1225(b)(2)(A).

15 108. By applying § 1225(b)(2)(A) to Petitioner under these circumstances,
16 Respondents have acted in excess of statutory jurisdiction and authority and have detained
17 Petitioner without authorization under the governing immigration detention statutes. 5 U.S.C. §
18 706(2)(C).

19 109. Respondents' detention of Petitioner is also arbitrary and capricious within the
20 meaning of 5 U.S.C. § 706(2)(A). Respondents failed to engage in reasoned decision-making
21 when classifying Petitioner as subject to mandatory detention, relying instead on a categorical
22 rule that disregards statutorily relevant facts including Petitioner's long residence in the United
23 States and his interior apprehension.

24 110. This unlawful misclassification has resulted in Petitioner's continued detention
25 without statutory authorization and without access to the discretionary custody framework
26 Congress established in § 1226(a). The resulting deprivation of liberty is ongoing agency action
27 that this Court has authority—and an obligation—to set aside under the APA.

1 111. Petitioner is therefore entitled to declaratory and injunctive relief, including an
2 order vacating Respondents' unlawful application of § 1225(b)(2)(A) to his detention and
3 directing that he be immediately released or, at minimum, provided a prompt custody
4 determination under § 1226(a).

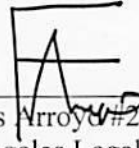
5 **PRAYER FOR RELIEF**

6 112. WHEREFORE, Petitioner respectfully requests that this Court:

- 7 a. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner
8 from custody.
- 9 b. In the alternative, order Respondents to provide Petitioner with a prompt, individualized,
10 and constitutionally adequate custody hearing before a neutral decisionmaker under 8
11 U.S.C. § 1226(a), to be held within seven (7) days, at which the Government bears the
12 burden of proving, by clear and convincing evidence, that continued detention is
13 necessary to prevent flight or protect the community and that no less restrictive
14 conditions of supervision would reasonably satisfy the Government's legitimate interests.
- 15 c. Declare that Respondents' reliance on 8 U.S.C. § 1225(b)(2)(A) to detain Petitioner
16 following his apprehension in the interior of the United States is contrary to law and in
17 excess of statutory authority, in violation of 5 U.S.C. § 706(2)(A) and (C).
- 18 d. Declare that Respondents' continued detention of Petitioner without an individualized
19 custody determination under § 1226(a) violates the Fifth Amendment's Due Process
20 Clause, including Petitioner's fundamental liberty interest in freedom from arbitrary civil
21 confinement.
- 22 e. Expedite briefing and adjudication of this petition pursuant to 28 U.S.C. § 1657(a) and
23 the Court's inherent authority, given Petitioner's ongoing deprivation of liberty.
- 24 f. Award attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. §
25 2412(d), and any other applicable authority.
- 26 g. Grant such other and further relief as the Court deems just and proper.
- 27
28

1 DATED: March 30, 2026

2
3 Respectfully Submitted,

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11 
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16 **VERIFICATION PURSUANT TO 28 U.S.C. 2242**

17 I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's
18 attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those
19 discussions, I hereby verify that the factual statements made in the attached Petition for Writ of
20 Habeas Corpus are true and correct to the best of my knowledge.

21
22 **List of Exhibits**

23 **Exhibit A** – NTA, issued February 1, 2026.

24 **Exhibit B** - IJ Bond Hearing Order, issued March 2, 2026.