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

9 **HERNANDEZ-HERNANDEZ,**
10 **CLAUDIO** Petitioner,

11 v.

12 **CHRISTOPHER LAROSE**, Warden at Otay
13 Mesa Detention Center; **GREGORY J.**
14 **ARCHAMBEAULT**, San Diego Field Office
15 Director ICE Enforcement Removal Operations;
16 **TODD M. LYONS**, Acting Director,
17 Immigration and Customs Enforcement.
18 **MARKWAYNE MULLIN**, Secretary of the
19 Department of Homeland Security; U.S.
20 DEPARTMENT OF HOMELAND
21 SECURITY; **TODD BLANCHE**, Attorney
22 General of the United States; EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW

Respondents

CIVIL CASE NO.:

'26CV2689 LL JLB

**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS**

Agency No:



Expedited Hearing Requested

I. INTRODUCTION

1. Petitioner, Mr. Claudio Hernandez-Hernandez is currently detained at Otay Mesa Detention Center. In the Notice to Appear filed with the Immigration Court, the Department of Homeland Security ("DHS") alleges that Mr. Hernandez-Hernandez is a Mexican national who entered the United States without inspection around 2000.

1 2. On November 14, 2025, Mr. Hernandez-Hernandez was pulled over
2 by Immigration and Custom Enforcement (ICE) officers on the way bringing his
3 minor son to school. He was arrested by ICE without a warrant. Petitioner was
4 cooperative during the arrest and has been held ever since.

5 3. On November 20, 2025, the District Court granted partial summary
6 judgment on behalf of individual plaintiffs and on November 25, 2025, certified a
7 nationwide class and extended declaratory judgment to the certified class.
8 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d -
9 ---, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial
10 summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v.*
11 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403,
12 at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed
13 nationwide Bond Eligible Class, incorporating and extending declaratory judgment
14 from Order Granting Petitioners' Motion for Partial Summary Judgment.

15 4. The declaratory judgment held that the Bond Denial Class members
16 are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for
17 release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at
18 *11.

19 5. Nonetheless, EOIR and its subagency the Immigration Court and DHS
20 have largely failed to abide by the declaratory relief and have continuously
21 unlawfully ordered that class members be denied the opportunity to be released on
22 bond.

23 6. Petitioner is a member of the Bond Eligible Class, as:

24 a. DHS alleges that Petitioner does not have lawful status in the United
25 States and is currently detained at the Otay Mesa Detention Center. He

1 was apprehended by immigration authorities on November 14, 2025;

2 b. DHS alleges that Petitioner entered the United States without
3 inspection over 20 years ago and were not apprehended upon arrival,
4 cf. id.; and

5 c. They are not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or §
6 1231.

7 7. After apprehending Petitioner on November 14, 2025, DHS placed him
8 in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged
9 Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as
10 someone who entered the United States without inspection.

11 8. This is Petitioner's second habeas before this court. Previously, the
12 United States District Court of Southern District Court of California
13 ordered Respondents to provide Petitioner a bond hearing under 8 U.S.C.
14 § 1226(a), which was set for February 12, 2026.

15 9. On February 12, 2026, the Immigration Judge assigned to the matter,
16 Judge Olga Attia, denied every bond request, including the Petitioner's.

17 10. Upon listening to the Digital Audio Recording (DAR), it is evident that
18 the very factors which would favor bond, such as length of residency in
19 the United States, were used as a pretext to deny bond. Under relevant
20 case law in determining if an individual warrants release from
21 immigration detention on bond, courts use *Matter of Guerra* as the
22 controlling framework. The denial was not made in contemplation of the
evidence, an egregious violation of the due process clause.

23 11. Now, Petitioner brings this second petition for a writ of habeas corpus to
seek enforcement of his rights as a member of the Bond Denial Class
certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-

1 BFM (C.D. Cal.) Petitioner is in the physical custody of Respondents at
2 the Otay Mesa Detention Center and now faces unlawful detention
3 because DHS and the Executive Office for Immigration Review
4 (“EOIR”) have refused to abide by the declaratory judgment issued on
behalf of the certified class in *Maldonado Bautista v. Santacruz*.

5 12. Petitioner now argues that his continued detention without an adequate
6 bond hearing violates his Fifth Amendment due process rights.

7 13. The Court should expeditiously grant this petition.

8 14. Respondents are bound by the judgment in *Maldonado Bautista*, as it has
9 the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).
10 Nevertheless, Respondents continue to effectively defy the judgment in
11 that case and continue to subject Petitioner to unlawful detention despite
their clear entitlement to consideration for release on bond as a Bond
Eligible Class member.

12 15. Immigration judges have informed class members in bond hearings that
13 they have been instructed by “leadership” that the declaratory judgment
14 in *Maldonado Bautista* is not controlling, even with respect to class
members, and that instead IJs remain bound to follow the agency’s prior
15 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

16 16. Additionally, Petitioner brings this writ of petition for habeas corpus as
17 their 4th Amendment right against unreasonable seizures was violated
18 when ICE arrested them without reasonable suspicion and without a
warrant.

19 17. Because Respondents are detaining Petitioner in violation of the
20 declaratory judgment issued in *Maldonado Bautista*, and Petitioner’s 4th
21 Amendment rights were violated, the Court should accordingly order that
Respondent immediately release Petitioner.

22 18. Alternatively, the Court should order Petitioner’s release unless Petitioner

1 is provided an adequate bond hearing with a different neutral adjudicator.

2 **II. VENUE AND JURISDICTION**

3 19. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C.
4 § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause).

5 20. Venue lies in this Division because Petitioner is detained in
6 Otay Mesa Detention Center, within the San Diego Division, and Respondent
LaRose is the immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

7 **III. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

8 21. The Court must grant the petition for writ of habeas corpus or issue an
9 order to show cause (OSC) to the Respondents “forthwith,” unless the
10 Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued,
11 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.*

12 22. The Court should grant the petition for writ of habeas corpus “forthwith,”
13 as the legal issues have already been resolved for class members in
14 *Maldonado Bautista*.

15 23. Habeas corpus is “perhaps the most important writ known to the
16 constitutional law . . . affording as it does a swift and imperative remedy
17 in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
400 (1963) (emphasis added). “The application for the writ usurps the
18 attention and displaces the calendar of the judge or justice who entertains
it and receives prompt action from him within the four corners of the
19 application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation
20 omitted).

21 24. The Petitioner is “in custody” for the purpose of § 2241 because he was
22 arrested and remains detained by the Respondents.

IV. PARTIES

25. Petitioner, Claudio Hernandez-Hernandez, resides in Vista, California. He is currently detained at the Otay Mesa Detention Center in San Diego, California.

26. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Mr. Hernandez-Hernandez is detained. Because ICE contracts with private prisons such as Otay Mesa to house immigration detainees such as Mr. Hernandez-Hernandez, Respondent LaRose has immediate physical custody of the Petitioner.

27. Respondent Gregory J. Archambeault is the San Diego Field Office Director ("FOD") for ICE Enforcement and Removal Operations ("ERO"). As such, Respondent Archambeault is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent Archambeault is being sued in his official capacity.

28. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement ("ICE"). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.

29. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (hereinafter "DHS"). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

30. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

1 31. Respondent Todd Blanche is the Attorney General of the United States.
2 He is responsible for the Department of Justice, of which the Executive
3 Office for Immigration Review and the immigration court system it
4 operates is a component agency. He is sued in her official capacity.

5 32. Respondent Executive Office for Immigration Review (EOIR) is the
6 federal agency responsible for implementing and enforcing the INA in
7 removal proceedings, including for custody redeterminations in bond
8 hearings

9 V. EXHAUSTION OF REMEDIES

10 33. With regard to habeas claims, exhaustion of administrative remedies is
11 prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988
12 (9th Cir. 2017). A court may waive the prudential exhaustion requirement
13 if “administrative remedies are inadequate or not efficacious, pursuit of
14 administrative remedies would be a futile gesture, irreparable injury will
15 result, or the administrative proceedings would be void.” *Id.* (quoting
16 *Liang v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Petitioner asserts
17 that exhaustion should be waived because administrative remedies are (1)
18 futile and (2) their continued detention results in irreparable harm.

19 34. Because Respondent is unable to grant a true, fair, and individualized
20 bond hearing to Petitioner in violation of the declaratory judgment issued
21 in *Maldonado Bautista*, seeking a bond hearing before an Immigration
22 Judge would be a futile endeavor. In the bond hearing on February 12,
2026, Petitioner was denied the bond request. On the same day,
Immigration Judge Olga Attia denied every detainee’s bond including
Petitioner’s. With this decision, the Immigration Judge effectively
ignored the Federal Judge, Hon. Bencivengo’s order and violated
Petitioner’s due process rights.

1 35. Bond hearings pursuant to an order granted from the Federal District
2 Judge are routinely scheduled but are denied on purely speculative or
3 jurisdictional grounds as a matter of course in the Immigration Courts
4 now. Immigration Judge's are routinely denying bond-eligible
5 noncitizens due to blanket DHS policy, essentially robbing individuals of
6 due process, even when bond hearings are scheduled. This farce creates a
7 dangerous dilemma where immigration courts are systematically
8 depriving of due process through the mechanism that should be
9 addressing who is able to be out on bond from detention.

10 VI. STATEMENT OF FACTS

11 36. Mr. Claudio Hernandez-Hernandez is a hardworking man. He lived with
12 his wife and twelve-year-old son before being detained. He worked in the
13 construction and remodeling industry and was the primary financial
14 support for his family, including his son's education expenses.

15 37. On November 14, 2025, Mr. Claudio Hernandez-Hernandez was pulled
16 over by ICE officers near his home when he was bringing his son to
17 school. Mr. Hernandez-Hernandez's son was dropped at school, and then
18 the ICE officers arrested Mr. Hernandez-Hernandez.

19 38. The ICE officers were aggressive during the encounter, yelling at Mr.
20 Hernandez-Hernandez and threatening to break the car window. They
21 handcuffed Mr. Hernandez-Hernandez immediately after he got out of the
22 car. Mr. Hernandez-Hernandez reacted peacefully without resistance and
avoided any conflicts with the officers.

39. Mr. Hernandez-Hernandez asked ICE officers for a warrant, but the
officers only showed some paperwork from a distance that Mr.
Hernandez-Hernandez could not identify. Upon review, it was not a
warrant. The officers did not ask about Mr. Hernandez-Hernandez's
immigration status and refused when Mr. Hernandez-Hernandez tried to

1 show them his documents.

2 The ICE officers moved Mr. Hernandez-Hernandez's car with the key
3 left inside the car. The officers searched and took away everything from
4 Mr. Hernandez-Hernandez's pocket including his wallet and phone. They
5 returned the cash upon request by Mr. Hernandez-Hernandez.

6 40. Mr. Claudio Hernandez-Hernandez was processed by ICE at the
7 downtown ICE ERO office and eventually transferred to Otay Mesa
8 Detention Center.

9 41. On February 9, 2026, United States District Judge, Hon. Cathy Ann
10 Bencivengo granted an order requesting Respondents to provide
11 Petitioner a bond hearing pursuant to § 1226(a).

12 42. However, the Immigration Judge Olga Attia denied this bond request
13 prejudicially. On the same day, this Immigration Judge denied every
14 detainee's bond request, including Petitioner's. The Immigration Judge's
15 decision demonstrates the trend that the DOJ and its sub-agencies, the
16 EOIR and the Board of Immigration Appeals (BIA), in apparent
17 coordination with DHS, have systematically dismantled the integrity of
18 the immigration court system to turn it into an extension of DHS's
19 deportation and detention operations over the last year.

20 43. Currently, no pre-deprivation hearing in the immigration system is
21 conforming to due process requirements. In part, this is because, no
22 "neutral and detached" hearing body is available at all. Instead, in
practice, DHS and ICE officers have sole discretion to determine who is
detained. The deprivation of liberty is happening with no individualized
determination and remains unchecked. Therefore, a writ of habeas corpus
is necessary to enforcement Petitioner's rights.

VII. LEGAL FRAMEWORK FOR RELIEF SOUGHT

44. Habeas corpus relief extends to a person “in custody under or by color of the authority of the United States” if the person can show he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

45. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

46. Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 423 (1979). Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or are a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

1 47. Removal proceedings described in section 240 of the INA are used to
2 determine whether individuals, such as Petitioner, should be removed
3 from the United States. See, 8 U.S.C. § 1229a. The Immigration and
4 Nationality Act establishes various procedures through which individuals
5 may be detained pending a decision on whether or not the noncitizen is to
be removed. 8 U.S.C. § 1226(a).

6 48. Custody determinations for individuals in § 1229a removal proceedings
7 are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be
8 released if she does not present a danger to persons or property and is not
9 a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of*
10 *Guera*, 24 I&N Dec. 37 (BIA 2006). Custody determinations under §
11 1226(a) are individualized and based on the facts presented in those cases.
12 Unlike § 1226(c), which can provide categorical determinations for
detention regardless of flight risk or safety risks, § 1226(a) requires a
case-by-case review of the facts and circumstances.

13 49. The Fourth Amendment protects “[t]he right of the people to be secure in
14 their persons . . . against unreasonable searches and seizures.” U.S. Const.
amend. IV.

15 50. “Except at the border and its functional equivalents,” immigration agents
16 may stop individuals in public only after identifying “specific articulable
17 facts, together with rational inferences from those facts, that reasonably
18 warrant suspicion” of a violation of immigration law. *United States v.*
Brignoni-Ponce, 422 U.S. 873, 884 (1975).

19 51. Reasonable suspicion for an immigration stop cannot be based “on broad
20 profiles which cast suspicion on entire categories of people without any
21 individualized suspicion of the particular person to be stopped.” *United*
22 *States v. Rodriguez Sanchez*, 23 F.3d 1488, 1492 (9th Cir. 1994). Rather,
reasonable suspicion must be “particularized and objective,” *United*

1 *States v. Arvizu*, 534 U.S. 266, 273 (2002), meaning the officer has
2 reasonable suspicion as to “the particular person being stopped.” *United*
3 *States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (en
4 banc).

5 52. Immigration officers may arrest an individual without a warrant in limited
6 circumstances. See *Arizona v. United States*, 567 U.S. 387, 407–08 (2012)
7 (noting strong Congressional preference, as expressed in INA, for
8 immigration arrests to be based on warrants).

9 53. The INA permits warrantless arrest if an immigration officer has reason
10 to believe that a noncitizen (1) is in the United States in violation of the
11 immigration laws and (2) “is likely to escape before a warrant can be
12 obtained for his arrest”. 8 U.S.C. § 1357(a)(2); accord 8 C.F.R. §
13 287.8(c)(2)(i)-(ii). An officer “has reason to believe” when they have the
14 equivalent of “the constitutional requirement of probable cause.” *Tejeda-*
15 *Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

16 54. The Fifth Amendment right to remain silent may be properly invoked
17 during a civil immigration arrest. See *Kastigar v. United States*, 406 U.S.
18 441, 444-45 (1972) (The privilege against self-incrimination “can be
19 asserted in any proceeding, civil or criminal, administrative or judicial,
20 investigatory or adjudicatory . . . This Court has been zealous to safeguard
21 the values which underlie the privilege.”).

22 55. An immigration officer may not establish probable cause on the basis of
a noncitizen’s silence pursuant to his Fifth Amendment rights. See *Hurd*
v. Terhune, 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming “the
fundamental principle that a suspect’s silence in the face of questioning
cannot be used as evidence against him at trial”).

56. If an immigration officer makes a warrantless arrest, at the time of an
arrest and “as soon as it is practical and safe to do so,” immigration

officers must identify themselves as immigration officers authorized to make arrests, inform the person arrested that they are under arrest, and state the reason for the arrest. 8 C.F.R. § 287.8(c)(2)(iii).

57. In so much as Petitioner's parole, which expired in October 2025 is relevant to this petition, Petitioner's due process rights do not rely on whether the parole has expired when he was arrested because "petitioner's liberty interest did not expire along with his parole." *Omer G.G. v. Kaiser, et al.*, 2025 WL 3254999, *5 (E.D. Cal. 2025); see, e.g., *Ramirez Tesara v. Wamsley*, 800 F.Supp.3d 1130, 1136 (W.D. Wash. 2025) (finding, on similar facts, that "[c]ontrary to Respondents' arguments, this private interest did not expire along with Petitioner's parole agreement.").

58. As noted by the Supreme Court, "implicit in the system's concern with parole violation is the notion that the parolee is entitled to retain his liberty as long as he substantially abides by the conditions of his parole." *Morrissey v. Brewer*, 408 U.S. 471. It was reasonable to expect that the petitioner's liberty would remain protected in abiding by the conditions of his immigration parole, regardless of whether the parole has expired.

VIII. CAUSES OF ACTION

COUNT ONE

Violation of the INA:

Request for Relief Pursuant to *Maldonado Bautista*

59. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

60. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

1 61.The order granting partial summary judgment in *Maldonado Bautista*
2 holds that Respondents violate the INA in applying the mandatory
3 detention statute at § 1225(b)(2) to class members.

4 62.The order granting class certification in *Maldonado Bautista* further
5 orders that “[w]hen considering this determination with the MSJ Order,
6 the Court extends the same declaratory relief granted to Petitioner to the
7 Bond Eligible Class as a whole.”

8 63.Respondents are parties to *Maldonado Bautista* and bound by the Court’s
9 declaratory judgment, which has the full “force and effect of a final
10 judgment.” 28 U.S.C. § 2201(a).

11 64.By denying class members a bond hearing under § 1226(a) and asserting
12 that they are subject to mandatory detention under § 1225(b)(2),
13 Respondents violate class members’ statutory rights under the INA and
14 the Court’s judgment in *Maldonado Bautista*.

15
16 **COUNT TWO**

17 **Violation of the Administrative Procedure Act—5 U.S.C. § 706(2)(A)**
18 **Abuse of Discretion**

19 65.Petitioner incorporates the allegations in the paragraphs above as though
20 fully set forth here.

21 66.Under the APA, a court shall “hold unlawful and set aside agency action”
22 that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

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

8 68. To survive an APA challenge, the agency must articulate “a satisfactory
9 explanation for its action, “including a rational connection between the
10 facts found and the choice made.” *Dept. of Com. v. New York*, 139 S.Ct.
11 2551, 2569 (2019) (citation omitted).

12 69. By detaining Petitioner categorically, without an individualized
13 assessment of his circumstances, and in complete violation of their own
14 policy under ICE Directive 11064.4, the Respondents abused their
15 discretion.

16 COUNT THREE

17 Violation of the Due Process Clause of the Fifth Amendment

18 70. Petitioner incorporates the allegations in the paragraphs above as though
19 fully set forth here.

20 71. All persons residing in the United States are protected by the Due Process
21 Clause of the Fifth Amendment.

22 72. The Due Process Clause of the Fifth Amendment provides that “[n]o
person shall be ... deprived of life, liberty, or property, without due
process of law.” U.S. CONST. amend. V. Freedom from bodily restraint is
at the core of the liberty protected by the Due Process Clause. This vital
liberty interest is at stake when an individual is subject to detention by the
federal government.

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

3 74. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533
4 U.S. 678 (2001), and its progeny, the Government may deprive a non-
5 citizen of physical liberty only when the confinement serves a legitimate
6 purpose—such as ensuring appearance or protecting the community—
7 and is reasonably related to, and not excessive in relation to, that purpose.
8 Detention that lacks adequate procedural safeguards or is imposed
9 without an individualized determination violates due process. *Id.* at 690.

10 75. Here, Petitioner was stopped, arrested, and detained in an arbitrary
11 manner, without any notice of the basis for the arrest and continued
12 detention, and not based on a rational and individualized determination of
13 whether he should be detained based on individual facts and
14 circumstances pertaining to whether there was a flight risk or danger to the
15 community.

16 76. By continuing to detain Petitioner based on an unlawful classification of
17 their custody as governed by § 1225(b)(2) and thereby depriving them of
18 any meaningful opportunity for an individualized custody determination
19 before a neutral decisionmaker, Respondents have violated Petitioner's
20 rights under the Due Process Clause of the Fifth Amendment.

21 **COUNT FOUR**

22 **Violation of Fourth Amendment Right against Unreasonable Seizure**

23 77. Petitioner incorporates the allegations in the paragraphs above as though
24 fully set forth here.

1 78.The Fourth Amendment clearly requires immigration agents to have
2 reasonable suspicion before seizing a non-citizen. *Brignoni-Ponce*, 422
3 U.S. 873, 886-7 (1975); *Orhorhaghe*, 38 F.3d at 494.

4 79.Reasonable suspicion must provide a "rational basis for separating out the
5 illegal aliens from American citizens and legal aliens." *Nicacio v. INS*,
6 797 F.2d 700, 704 (9th Cir. 1985). Reasonable suspicion also requires
7 "specific articulable facts." *Gonzalez-Rivera*, 22 F.3d at 1445. Articulable
8 facts standard has been defined by the Ninth Circuit as "measured against
9 an objective reasonable man standard not by the subjective impressions
10 of a particular officer." *Nicacio v. INS*, 797 F.2d 700, 703 (9th Cir. 1985).

11 80.Here, the Respondents violated Petitioner's Fourth Amendment Rights
12 because they did not have a reasonable suspicion, based on specific
13 articulable facts, to arrest them.

14 IX. PRAYER FOR RELIEF

15 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 16 1. Assume jurisdiction over this matter;
- 17 2. ***Grant Petitioner a writ of habeas corpus directing the Respondents to***
18 ***immediately release*** them from custody;
- 19 3. In the alternative, conduct an immediate bond hearing before this Court
20 where DHS bears the burden of justifying Petitioner's continued
21 detention by clear and convincing evidence;
- 22 4. In the alternative, order an immediate new bond hearing before a neutral
decisionmaker where DHS bears the burden of justifying Petitioner s'
continued detention by clear and convincing evidence;
5. Order Respondents to refrain from transferring Petitioner out of the
jurisdiction of this court during the pendency of these proceedings and
while the Petitioner remain in Respondents' custody;

6. Order Respondents to file a response within 3 business days of the filing of this petition;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
8. Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

CONCLUSION

For all these reasons, this Court should grant the petition.

Respectfully submitted this April 27, 2026.

/s/Caroline Matthews
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Solana Beach, CA 92075
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