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

11
12 Dionicio Gonzalez Garcia,
13 Petitioner,

14 vs.

15
16 CHRISTOPHER J. LAROSE, Senior
Warden of Otay Mesa Detention Center,
17 GREGORY J. ARCHAMBEAULT, Field
Officer Director for the San Diego
18 Immigration and Customs Enforcement
Office; TODD LYONS, Acting Director
19 of United States Immigration and
Customs Enforcement; MARKWAYNE
20 MULLIN, Secretary of the United States
Department of Homeland Security,
21 TODD BLANCHE, Acting Attorney
General of the United States, acting in
22 their official capacities,
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26 Respondents.
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'26CV2765 TWR GC

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

1 Petitioner Dionicio Gonzalez Garcia brings this petition for a writ of habeas
2 corpus to seek enforcement of his rights as a member of the bond eligible class
3 certified in *Maldonado Bautista v. Santacruz*, no. 5:25-cv-01873-SSS-BFM (C.D.
4 Cal.). Mr. Gonzalez is in the physical custody of Respondents at the Otay Mesa
5 Detention Facility in San Diego California.

6 INTRODUCTION

7
8 1. Petitioner Dionicio Gonzalez Garcia (“Petitioner” or “Mr. Gonzalez”) is a
9 forty-one-year-old Mexican citizen, who is being unlawfully detained by
10 Immigration and Customs Enforcement (ICE) at Otay Mesa etention Facility despite
11 residing in Southern California since 2003. Mr. Gonzalez was arrested at a Border
12 Patrol checkpoint near Murietta, California, on his way to pick up supplies for his
13 roofing job.

14 2. Respondents have improperly concluded that Petitioner – despite being
15 physically present within the interior of and residing in the United States for over
16 twenty-three years and being arrested in Murietta, California – should be deemed to
17 be seeking admission into the United States and therefore subject to mandatory
18 detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

19 3. Petitioner’s mandatory detention is part of the Department of Homeland
20 Security (DHS) policy issued on July 8, 2025,¹ instructing ICE employees to
21 consider anyone who entered the United States without admission or inspection to
22 be subject to mandatory detention during the entire removal hearing process under
23 8 U.S.C. § 1225(b)(2)(A).

24 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA)
25 issued a precedent decision binding on all immigration judges (IJs), holding that IJs
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28 ¹ Available at: <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/>.

1 have no authority to consider bond requests for any person who entered the United
2 States without admission, and determining that such individuals are subject to
3 detention under 8 U.S.C. § 1225(b)(2)(A), and therefore ineligible for release on
4 bond. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

5 5. As set out more fully below, on December 18, 2025, the United States District
6 Court for the Central District of California issued a published decision (since stayed
7 by the Ninth Circuit except for in the Central District) in *Bautista v. Santacruz* that
8 directly abrogated *Matter of Yajure Hurtado*. *Bautista v. Santacruz*, 813 F.Supp.3d
9 1084 (2025). Additionally, the *Bautista* court certified a nationwide "Bond Eligible
10 Class" and vacated the DHS policy underlying the *Yajure Hurtado* decision as
11 arbitrary and capricious under the Administrative Procedure Act. *Herrera v.*
12 *Secretary of U.S. Department of Homeland Security*, 2026 WL 554707 (2026).

14 6. Although *Bautista v. Santacruz* has been stayed, its reasoning applies in full
15 force here because Petitioner's detention under § 1225 clearly violates the plain
16 language of the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

17 7. Individuals in Petitioner's position – noncitizens who are charged as
18 removable for having entered the United States without inspection or are present
19 without admission – are subject to a different statute, § 1226(a), which allows for
20 release on conditional parole or bond.

21 8. Specifically, Mr. Gonzalez was apprehended late morning on or about March
22 3, 2026, while working in Murietta, California. *See* Exhibit A, Petitioner's Notice to
23 Appear ("NTA"). Mr. Gonzalez was on his way to pick up supplies for the roofing
24 company he worked for and was detained and arrested at a Border Patrol checkpoint
25 when the agents requested identification and proof of residency. Mr. Gonzalez was
26 not carrying his California driver's license. *See* Exh. A, Petitioner's NTA.

1 9. The Border Patrol agents determined that Mr. Gonzalez to be undocumented
2 and decided to arrest him, however they allowed him to arrange for a co-worker to
3 retrieve his vehicle. Mr. Gonzalez has been detained at the Otay Mesa Detention
4 Facility since March 3, 2026.

5 10. As stated, Mr. Gonzalez has lived in Southern California for over
6 twenty-three years. He works as a roofer and is engaged to be married to Karen
7 Rojas, a United States citizen and Petitioner's girlfriend for ten years. In addition to
8 working as a roofer, Mr. Gonzalez lives at the [REDACTED]
9 [REDACTED] in Los Angeles, California, where he has helped conduct
10 maintenance for the last five years.

11 11. Upon information and belief, following Petitioner's arrest and transfer
12 to Otay Mesa Detention Facility, ICE issued a custody determination to continue
13 Petitioner's detention without an opportunity to post bond or be released on other
14 conditions. Petitioner has not received a bond hearing since his March 3, 2026,
15 detention.

16 12. Absent an order from this Court, Petitioner will remain indefinitely and
17 unlawfully detained, without any avenue for review by a neutral arbiter because
18 DHS and the Executive Office of Immigration Review (EOIR) – namely,
19 immigration prosecutors and IJs – have concluded that Petitioner is subject to
20 mandatory detention, contrary to decades of caselaw, DHS and ICE enforcement
21 practices, legislative interpretation, and the plain statutory language of the INA.

22 13. In addition, Respondents' policy clearly runs afoul of Petitioner's
23 constitutional due process rights, rights to which "all 'persons' within the United
24 States, including aliens, whether their presence here is lawful, unlawful, temporary,
25 or permanent," are entitled. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
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14. Therefore, each day that Respondents continue to detain Mr. Gonzalez, they are violating his constitutional and statutory rights. Indeed, Mr. Gonzalez's continued detention is causing him immense, ongoing harm.

15. Petitioner therefore respectfully requests this Court to end his indefinite detention and issue a writ of habeas corpus ordering his immediate release or, in the alternative, to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days. Petitioner also requests that this Court order the government not to transfer him outside of this District or deport him throughout the duration of this proceeding.

JURISDICTION

16. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory Judgment Act); and 28 U.S.C. § 1331 (federal question). This Court also has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

17. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See Zadvydas*, 533 U.S. at 687. Administrative exhaustion is a prudential rather than jurisdictional requirement for habeas review under 28 U.S.C. § 2241. *See Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004).

18. This action is also brought under the Administrative Procedure Act (APA). Jurisdiction is proper pursuant to the judicial review provision of the APA, 5 U.S.C. § 702.

PARTIES

I. Petitioner

24. Petitioner, Dionicio Gonzalez Garcia, is currently detained at Otay Mesa Detention Facility in San Diego, California, where he has been since his arrest on March 3, 2026. Petitioner is in custody, and under the direct control, of Respondents and their agents.

II. Respondents

25. Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa Detention Center. He is the physical custodian of Mr. Louis. In this capacity, he is responsible for overseeing the operations of Otay Mesa Detention Center, including the detention of Mr. Louis. Respondent LaRose is sued in his official capacity.

26. Respondent Gregory J. Archambeault is the Field Office Director of the San Diego ICE Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Diego Area of Responsibility, including the detention of Mr. Louis. Respondent Archambeault maintains an office and regularly conducts business in this district. Respondent Archambeault is sued in his official capacity.

27. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove Mr. Louis. Respondent Lyons is sued in his official capacity.

28. Respondent Markwayne Mullen is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority over and responsibility for the operation and enforcement of the immigration laws, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove Mr. Louis. Respondent Mullen is sued in his official capacity.

29. Respondent Todd Blanche is the Acting Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through his agents, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Blanche is sued in his official capacity.

FACTUAL BACKGROUND

30. Petitioner Gonzalez is a forty-one-year-old citizen of Sinaloa, Mexico.

31. Mr. Gonzalez came to the United States in August, 2003 to flee cartel forced recruitment and violence. He entered the United States near Douglas, Arizona, and had no contact with immigration officials for twenty-three years, until March 3, 2026.

32. Mr. Gonzalez joined the Ministries of Jerusalem (Ministerios de Jerusalem) five years ago [REDACTED] He works in general maintenance there and is a valued member of the church, according to Pastor Mauricio Cruz. He is also a roofer and was working as a roofer the day of his arrest and detention.

33. He met his fiancé, Karen Rojas over ten years ago, and they have been in a committed relationship since 2016. Ms. Rojas is a United States citizen.

34. On March 3, 2026, Mr. Gonzalez was at work and was asked to drive to pick up supplies. As he drove back to the jobsite after picking up the supplies, he was stopped and detained by Border Patrol after he failed to produce a valid driver's license.

LEGAL FRAMEWORK

I. Law and Procedure Governing this Habeas Petition

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

36. As stated above, on December 18, 2025, the district court issued an order clarifying that the November 20 and November 25 orders are binding, final judgments on Defendants-Respondents. *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3713982, at *5–6 (C.D. Cal. Dec. 18, 2025); *see also Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), Dkt. No. 93 (amended order consolidating prior orders

1 on motion for partial summary judgment, class certification, and application for
2 reconsideration or clarification).

3 37. That same day, the district court entered final judgment, declaring that
4 the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), and thus
5 may not be denied consideration for release on bond under § 1225(b)(2)(A).
6 *Maldonado Bautista v. Noem*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025
7 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).

8 38. In *Navarro-Maury v. Hermosillo*, 2026 WL 672976 (2026), the Ninth
9 Circuit issued an administrative stay on March 6, 2026, temporarily limiting the
10 nationwide scope of the *Bautista v. Santacruz* decision. *Ibid*. Nevertheless, the
11 overwhelming majority of courts—including in this Circuit—have rejected the
12 government’s arguments and agree that noncitizens like Petitioner are subject to §
13 1226(a) and eligible for a bond hearing.

14 39. Petitioner Gonzalez is subject to § 1226 (a), and not § 1225(b) and
15 therefore eligible for a bond hearing as he:

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18 a. does not have lawful status in the United States and is currently
19 detained at the Otay Mesa Detention Facility; He was
20 apprehended by immigration authorities on March 3, 2026;
21 b. entered the United States without inspection over twenty-three
22 years ago in 2003, and was not apprehended upon arrival, *cf.*
23 *id.*; and
24 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or
25 § 1231.

26 40. The Court should order Petitioner’s release unless Respondents provide
27 a bond hearing under 8 U.S.C. § 1226(a) within seven days.

28 41. Even if the Court does not order relief under *Maldonado Bautista*, the
text and structure of § 1226 and § 1225 demonstrate that § 1226(a) governs
Petitioner’s detention.

1 42. Section 1226 generally governs the detention of those “already in the
2 United States.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Subsection (a)
3 applies the default rule for such people, providing for discretionary detention
4 “pending a decision on whether the [noncitizen] is to be removed from the United
5 States.” These removal hearings are held under § 1229a, to “decid[e] the
6 inadmissibility or deportability of a[] [noncitizen].”

7 43. Subsection (c) confirms that subsection (a) governs Petitioner’s
8 detention. As the Supreme Court has explained, “subsection (c) is simply a limit on
9 the authority conferred by subsection (a).” *Nielsen v. Preap*, 586 U.S. 392, 409
10 (2019). It “carves out a statutory category of [noncitizens] who may *not* be released
11 under § 1226(a)” in *Jennings*. 583 U.S. at 289.

12 44. Critically, subsection (c)’s carve outs reference people charged as being
13 inadmissible, including those who entered without admission or parole. *See* 8 U.S.C.
14 § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by
15 default, people like Petitioner people are afforded a bond hearing under subsection
16 (a). This is because “the statutory exceptions would be unnecessary” unless the
17 statute “appl[ies] generally” to inadmissible persons. *Shady Grove Orthopedic*
18 *Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *see also id.* (“The fact
19 that Congress has created specific exceptions to [the Rule] hardly proves that the
20 Rule does not apply generally. In fact, it proves the opposite.”).

21 45. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
22 or who recently entered the United States. The statute’s entire framework is premised
23 on “inspection[s]” at the border by “examining immigration officer[s]” of people
24 who are “seeking admission” to the United States. 8 U.S.C. § 1225(b), (2)(A).
25 Indeed, the Supreme Court has explained that this mandatory detention scheme
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1 applies “at the Nation’s borders and ports of entry, where the Government must
2 determine whether a[] [noncitizen] seeking to enter the country is admissible.”
3 *Jennings*, 583 U.S. at 287.

4 46. Accordingly, the mandatory detention provision of § 1225(b)(2) does
5 not apply to people like Petitioner, who have already entered and were residing in
6 the United States at the time they were apprehended.

7 47. The overwhelming majority of courts—including in this Circuit—have
8 rejected the government’s arguments and agree that noncitizens like Petitioner are
9 subject to § 1226(a) and eligible for a bond hearing. *See Barco Mercado v. Francis*,
10 No. 25-cv-6582, --- F. Supp. 3d ----, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26,
11 2025) (listing 350 decisions rejecting government’s position); *Jacobo Ramirez v.*
12 *Noem*, No. 2:25-CV-02136-RFB-MDC, 2026 WL 310090, at *1 (D. Nev. Feb. 5,
13 2026) (noting “more than 300 federal judges in over 1,600 cases across the country
14 have rejected the government’s new detention policy, with over 100 new lawsuits
15 filed daily, while 14 federal judges have found in favor of the government’s position”
16 (citation omitted)). In the Southern District of California, the district courts have also
17 rejected the government’s policy. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-
18 BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*,
19 No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v.*
20 *Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia*
21 *v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-
22 CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel*
23 *v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025);
24 *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13,
25 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec.
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12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

48. The Court should therefore order Petitioner's immediate release, or, in the alternative, require Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the INA:

Unlawful Detention under 8 U.S.C. § 1225(b)(2)(A)

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

56. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does apply to Petitioner. The text and structure of § 1226 and § 1225 reflect that Congress provided for discretionary detention under § 1226(a) to govern Petitioner's detention.

57. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

58. Accordingly, Petitioner is entitled to immediate release, or, in the alternative, consideration for release on bond by Respondents.

COUNT TWO

Violation of the Immigration and Nationality Act, 8 U.S.C. § 1226(a)

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

1 57. Further, under the *Accardi* doctrine, an administrative agency is
2 required to adhere to its own internal operating procedures. *Accardi*, 347 U.S. at 268.
3 *Accardi* challenges may be framed as arbitrary and capricious challenges. *Norton*,
4 340 F.3d at 841, 852.

5 58. Respondents' new policy of re-classifying individuals under §
6 1225(b)(2) who were originally released under § 1226(a) is arbitrary and capricious,
7 in violation of 5 U.S.C. § 706(2)(A).
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9 59. Respondents' detention of Petitioner pursuant to § 1225(b)(2), despite
10 his arrest being his first contact with immigration officials, is arbitrary and
11 capricious, an abuse of discretion, violative of the Constitution, and without statutory
12 authority.

13 60. Accordingly, Petitioner's continued detention violates 5 U.S.C. §
14 706(2).
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16 **COUNT FOUR**

17 **Violation of the Fifth Amendment (Substantive Due Process)**

18 61. The allegations in the above paragraphs are realleged and incorporated
19 herein.

20 62. The Due Process Clause of the Fifth Amendment forbids the
21 government from depriving any person of their liberty "without due process of law."
22 U.S. CONST. AMEND. V.

23 63. The government has only two legitimate interests that may be served
24 by civil immigration detention: preventing flight from removal proceedings and
25 protecting the community from danger.
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64. Petitioner has aptly demonstrated that neither of those interests would be served in his case, as he has no criminal record, and has created a life with certain constitutional protections within Southern California.

65. Accordingly, Petitioner's continued detention violates his substantive due process rights.

COUNT FIVE

Violation of the Fifth Amendment (Procedural Due Process)

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

67. Mr. Gonzalez has a protected interest in his liberty that the government cannot infringe without due process of law. *See Mathews v. Eldridge*, 424 U.S. 319, 330, 335 (1976). The *Mathews* test balances (1) the private interest threatened by governmental action; (2) the risk of erroneous deprivation of such interest and the probable value of additional procedural safeguards; and (3) the government interest. 424 U.S. at 335.

68. Mr. Gonzalez's private interest in his liberty, and the risk of erroneous deprivation of that liberty, far outweighs the government's interest in detaining him especially since he has lived peacefully in the community for twenty-three years and has never been in contact with immigration enforcement before. *Id.*

69. First, Mr. Gonzalez's private interest in his liberty, the main private interest here, is "unquestionably substantial." *Martinez Leiva v. Garland*, 3:23-cv-02027-CRB, Dkt. 15 at 13 (quoting *Singh*, 638 F.3d at 1208). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas*, 533 U.S. at 690. Petitioner "has an overwhelming interest

1 here—regardless of the length of his immigration detention—because ‘any length of
2 detention implicates the same’ fundamental rights.” *Perera v. Jennings*, No. 21-cv-
3 04136-BLF, 2021 WL 2400981, at *4 (N.D. Cal. June 11, 2021) (citation omitted).

4 70. Mr. Gonzalez’s private interest is further strengthened by the
5 conditions of his civil detention at Otay Mesa Detention Center. OMDC is partially
6 operated as a federal prison and the conditions at OMDC for civil detainees remain
7 equally punitive. *Gonzalez v. Bonnar*, No. 18-cv-0531-JSC, 2019 WL 330906, at *5
8 (N.D. Cal. Jan. 25, 2019) (“[C]ourts consider the conditions of the
9 [noncitizen’s] detention because [noncitizens] held under § 1226(c) are subject to
10 civil detention rather than criminal incarceration.” (quoting *Muse v. Sessions*, 409 F.
11 Supp. 3d 707, 717 (D. Minn. 2018)); *Martinez v. Clark*, No. C18-1669-RAJ-
12 MAT, 2019 WL 5968089, at *9 (W.D. Wash. May 23, 2019) (“[T]he more that
13 “conditions under which the [noncitizen] is being held resemble penal confinement,
14 the stronger his argument that he is entitled to a bond hearing.” (citation omitted)).
15 Indeed, the undersigned visits with her immigration clients in the same rooms as her
16 criminal clients, who wear the same uniforms, and are subjected to the same
17 handcuffs and the same tight security measures and *both pre- and post-sentenced*
18 criminal clients.
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20 71. Finally, Petitioner’s liberty interest is particularly profound because of
21 his ties to the United States, which must be afforded weight under
22 the *Mathews* test. *See Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (in applying the
23 first *Mathews* factor, weighing the right to “rejoin [one’s] immediate
24 family” as “rank[ing] high among the interests of” a detained individual with
25 longstanding ties to the U.S.); *id.* (recognizing the “right ‘to stay and live and work
26 in this land of freedom’” (citation omitted)). Petitioner’s ties to the United
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1 States after twenty-three years, heighten his interest in being at liberty, in the
2 company of his family and community, while his immigration proceedings continue.

3 72. Second, the risk of erroneous deprivation and the probable value
4 of additional procedural safeguards also weigh heavily in Petitioner's
5 favor. "[T]he risk of an erroneous deprivation of liberty in the absence of a hearing
6 before a neutral decisionmaker is substantial." *Diouf v. Napolitano*, 634 F.3d 1081,
7 1092 (9th Cir. 2011) ("*Diouf II*"). Conversely, "the probable value of additional
8 procedural safeguards—an individualized evaluation of the justification for his
9 detention—is high, because Respondents have provided virtually no procedural
10 safeguards at all." *Jimenez*, 2020 WL 510347, at *3 (granting habeas petition for
11 person who had been detained for one year without a bond hearing); *see also Perera*,
12 2021 WL 2400981, at *4 ("[T]he value of providing Perera with a hearing is
13 high."). Moreover, "[t]hat there is no remotely certain end in sight
14 to [Petitioner's] custody only raises the risk of erroneous deprivation." *Perera*, 2021
15 WL 2400981, at *4.
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17 73. Third, the government's interest in continuing to detain Mr. Gonzalez
18 without any individualized, neutral review is very weak. The government's interest
19 at stake here is not its ability to continue to detain Petitioner, but rather
20 the government's ability to continue to detain him illegally and *without any*
21 *individualized review*. *See Marroquin Ambriz v. Barr*, 420 F. Supp.
22 3d 953, 964 (N.D. Cal. 2019); *Lopez Reyez v. Bonnar*, 362 F. Supp. 3d 762, 777
23 (N.D. Cal. 2019); *Singh v. Barr*, 400 F. Supp. 3d 1005, 1021 (N.D. Cal.
24 2019); *Henriquez*, 2022 WL 2132919, at *5 ("[T]he Government's interest
25 in detaining Petitioner without providing an individualized bond hearing is low.").
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1 74. The cost of providing an individualized inquiry
2 is also minimal. *See Marroquin Ambriz*, 420 F. Supp. 3d at 964; *Lopez Reyez*, 362 F.
3 Supp. 3d at 777; *Singh*, 400 F. Supp. 3d at 1021; *Henriquez*, 2022 WL 2132919, at
4 *5.

5 75. In any event, it is “always in the public interest to prevent the violation
6 of a party’s constitutional rights.” *See Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th
7 Cir. 2012) (quoting *Sammartano v. First Judicial Dist. Court*, 303 F.3d 959, 974 (9th
8 Cir. 2002)); *cf. Doe v. Kelly*, 878 F.3d 710, 718 (9th Cir. 2017) (“[T]he ‘government
9 suffers no harm from an injunction that merely ends unconstitutional practices and/or
10 ensures that constitutional standards are implemented.’” (quoting *Rodriguez v.*
11 *Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013)). “Requiring the government to
12 provide [Petitioner] a bond hearing does not meaningfully undermine the
13 government’s interest in detaining non-citizens who pose a danger to the community
14 or are a flight risk.” *Perera*, 2021 WL 2400981, at *5; *see also Hernandez*, 872 F.3d
15 at 994 (“[T]he government has no legitimate interest in detaining individuals who
16 have been determined not to be a danger to the community and whose appearance at
17 future immigration proceedings can be reasonably ensured by a lesser bond or
18 alternative conditions.”).

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21 76. Accordingly, Mr. Gonzalez’s continued detention without a bond
22 redetermination hearing violates his procedural due process rights.

23 **PRAYER FOR RELIEF**

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

- 25 (1) Assume jurisdiction over this matter;
- 26
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- (2) Issue a writ of habeas corpus commanding Mr. Gonzalez's immediate release from Otay Mesa Detention Facility or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days;
- (3) Return all of Mr. Gonzalez's personal property to him immediately upon his release from custody;
- (4) Enjoin Respondents from causing Mr. Gonzalez any greater harm during the pendency of this litigation and his immigration court case, including, but not limited to, transferring him away from family and pro bono counsel;
- (5) Declare Mr. Gonzalez's detention unlawful under the INA and the Due Process Clause of the Fifth Amendment of the United States Constitution;
- (6) Award Petitioner attorney's fees and costs of \$4,000.00 under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Dated: April 29, 2026

Respectfully Submitted,

/s/Janice Deaton

Janice Deaton

Attorney for Petitioner

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

I represent Petitioner, Dionicio Gonzalez Garcia, 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 29 day of April, 2026

Respectfully Submitted,

/s/ Janice Deaton

Janice Deaton, Pro Bono Attorney
Immigrant Defenders
Attorneys for Petitioner