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10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 **LEOBARDO PACHECO RAMIREZ,**

14 **Petitioner,**

15 **v.**

16 **MARKWAYNE MULLIN, Secretary, U.S.**
17 **Department of Homeland Security; Pamela BONDI,**
18 **U.S. Attorney General; Todd LYONS, Acting**
19 **Director, Immigration and Customs Enforcement;**
20 **JOSEPH FREDEN, Acting Field Office Director,**
21 **U.S. Immigration & Customs Enforcement (ICE),**
22 **CHRISTOPHER J. LAROSE, Senior Warden Otay**
23 **Mesa Detention Facility; EXECUTIVE OFFICE**
24 **FOR IMMIGRATION REVIEW; IMMIGRATION**
25 **AND CUSTOMS ENFORCEMENT; and U.S.**
26 **DEPARTMENT OF HOMELAND SECURITY,**

27 **Respondents.**

28 **Case No. '26CV2872 DMS MSB**

PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241; VERIFIED
PETITION

PETITIONER'S A NO. 

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I. INTRODUCTION

1. Petitioner Leobardo Pacheco Ramirez, by and through undersigned counsel, respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, together with claims for declaratory and injunctive relief, challenging his ongoing and unlawful civil immigration detention by the Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”).
2. Petitioner entered the United States without inspection in 2008 and has resided in this country for approximately eighteen years.
3. Petitioner is married. His wife resides in the United States and does not currently have lawful immigration status.
4. Petitioner is the father of three U.S. citizen children, all of whom are minors.
5. Two of Petitioner’s U.S. citizen children, ages fourteen and five, reside with his family.
6. Petitioner also has a third U.S. citizen child, age fifteen, with another woman. Petitioner supports that child and maintains an ongoing parental relationship with him.
7. Petitioner has no criminal record whatsoever.
8. Petitioner pays taxes in the United States.
9. Petitioner has a sponsor in the United States who is prepared to support him during the pendency of removal proceedings and help ensure his attendance at all future hearings.

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10. On April 28, 2026, ICE arrested Petitioner and placed him in immigration detention.

11. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego County, California.

12. Petitioner does not challenge any final order of removal. He challenges only the legality of his present detention and the absence of a lawful and constitutionally adequate custody determination.

13. Because Petitioner was detained after living in the United States for many years following his 2008 entry, the discretionary detention framework of 8 U.S.C. § 1226 governs his custody, not the entry-focused detention provisions of 8 U.S.C. § 1225(b), and not the post-final-order detention provisions of 8 U.S.C. § 1231.

14. Petitioner’s detention is unlawful for several independent reasons. First, it is contrary to the Immigration and Nationality Act (“INA”) because, on the facts known here, § 1226 governs. Second, it violates the Fifth Amendment because Petitioner was taken into civil immigration custody without any individualized pre-detention process or timely constitutionally adequate custody determination. Third, it is arbitrary and capricious under the Administrative Procedure Act (“APA”) because Respondents have provided no reasoned explanation for the detention decision and no individualized findings. Fourth, the detention is arbitrary civil confinement not reasonably tied to any demonstrated present need.

1 15. Recent federal decisions, including decisions from this District, have
2 repeatedly held that where a noncitizen entered without inspection, was not
3 apprehended upon entry, lived in the interior for years, and was later detained
4 pending removal proceedings, detention is governed by § 1226 rather than §
5 1225. See, e.g., *Bautista v. Santacruz*, 813 F. Supp. 3d 1075, 1083–84 (C.D.
6 Cal. 2025); *Martinez Lopez v. Noem*, No. 25-cv-2717-JES-AHG, 2025 WL
7 3030457, at *2–7 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25-cv-
8 2650-LL-DEB, 2025 WL 3078837, at *4–7 (S.D. Cal. Nov. 4, 2025);
9 *Velazquez-Beltran v. Noem*, No. 3:26-cv-959-JES-MSB, 2026 WL 524056, at
10 *2–3 (S.D. Cal. Feb. 25, 2026).

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13 16. Immediate release is the proper primary remedy. As multiple federal courts
14 have explained, a later bond hearing does not undo the injury already inflicted
15 by an unlawful deprivation of liberty. See *E.A. T.-B. v. Wamsley*, 795 F.
16 Supp. 3d 1316, 1324 (W.D. Wash. 2025); *Jorge M.F. v. Jennings*, 534 F.
17 Supp. 3d 1050, 1055 (N.D. Cal. 2021); *Domingo v. Kaiser*, No. 25-cv-05893-
18 RFL, 2025 WL 1940179, at *3 (N.D. Cal. July 14, 2025). Most recently, in
19 *Ramirez v. Noem*, the court held that where a petitioner was detained after
20 long residence in the United States, § 1226 governed and immediate release,
21 rather than a bond hearing, was the proper remedy. No. 3:26-cv-01880-RBM-
22 VET, slip op. at 3–4 (S.D. Cal. Apr. 9, 2026).

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25 17. In the alternative, if the Court declines to order immediate release outright,
26 Petitioner requests a prompt custody determination within five (5) days before
27 a neutral decisionmaker under the § 1226(a) framework, with the burden on
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the government to establish by clear and convincing evidence that continued detention is necessary.

18. Each additional day of detention inflicts irreparable harm.

II. JURISDICTION

19. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody under federal authority and alleges that he is in custody in violation of the Constitution and laws of the United States. See 28 U.S.C. § 2241(a), (c)(3); Preiser v. Rodriguez, 411 U.S. 475, 484 (1973).

20. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under federal law, including the Constitution, the INA, and the APA.

21. The Court’s habeas jurisdiction extends to immigration-detention claims asserting statutory error and constitutional violations. See Zadvydas v. Davis, 533 U.S. 678, 687–88, 699 (2001); Demore v. Kim, 538 U.S. 510, 517 (2003).

22. Petitioner does not seek review of any final order of removal.

23. Jurisdiction is not barred by 8 U.S.C. § 1252(g) or § 1252(b)(9) because Petitioner challenges the legality of his detention and the statutory and constitutional framework governing that detention, not any decision to commence proceedings, adjudicate removability, or execute a final removal order. See Jennings v. Rodriguez, 583 U.S. 281, 293–95 (2018); Reno v. Am.-Arab Anti-Discrimination Comm., 525 U.S. 471, 482 (1999); Dep’t of Homeland Sec. v. Regents of the Univ. of Cal., 140 S. Ct. 1891, 1907 (2020).

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24. The APA independently authorizes review of agency action that is arbitrary, capricious, contrary to law, or in excess of statutory authority. 5 U.S.C. § 706(2).

25. Accordingly, this Court has jurisdiction to determine the legality of Petitioner’s custody and to order appropriate habeas, declaratory, and injunctive relief.

III. VENUE

26. Venue is proper in this District because Petitioner is detained within the Southern District of California at the Otay Mesa Detention Center.

27. Venue is also proper because Petitioner’s immediate custodian is located within this District. See *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484 (1973); *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).

28. The detention challenged in this Petition is presently occurring within this District, and this Court is therefore the proper forum to adjudicate the legality of Petitioner’s confinement.

IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

29. Under 28 U.S.C. § 2241, federal courts may entertain petitions for habeas corpus filed by persons who are in custody in violation of the Constitution or laws of the United States.

30. This is a classic habeas case. Petitioner challenges the fact and legality of his civil confinement and seeks release from allegedly unlawful detention.

1 31. Section 2243 requires prompt judicial action. The statute directs that the Court
2 shall forthwith award the writ or issue an order directing the respondent to
3 show cause why the writ should not be granted, unless it plainly appears from
4 the petition that the petitioner is not entitled to relief.
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6 32. The urgency of habeas review is especially acute where a person is deprived
7 of physical liberty and where each additional day of detention causes concrete
8 and irreparable harm.
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10 33. Nothing on the face of this Petition shows that Petitioner is not entitled to
11 relief.
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13 34. To the extent any form of prudential exhaustion could be argued, it should be
14 excused because Petitioner is asserting statutory and constitutional challenges
15 to detention itself, because no final administrative custody determination has
16 been provided, because a post-detention hearing cannot fully remedy the
17 injury already suffered, and because delay would cause continuing irreparable
18 harm.
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20 35. Prompt intervention is warranted.
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V. PARTIES

22 36. Petitioner Leobardo Pacheco Ramirez, is a Mexican citizen currently detained
23 by ICE at the Otay Mesa Detention Center in San Diego County, California.
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25 37. Petitioner entered the United States without inspection in 2008 and never left.
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27 38. Petitioner has lived in the United States for approximately eighteen years.
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39. Petitioner is married, and his wife resides in the United States without lawful
immigration status.

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40. Petitioner is the father of three U.S. citizen children, all minors.
41. Two of Petitioner’s U.S. citizen children are ages fourteen and five.
42. Petitioner also has a fifteen-year-old U.S. citizen child with another woman.
He supports that child and maintains an ongoing relationship with him.
43. Petitioner has no criminal record.
44. Petitioner pays taxes in the United States.
45. Petitioner has an available sponsor in the United States who is willing to
house and support him during removal proceedings and help ensure his
attendance at future hearings.
46. On April 28, 2026, ICE arrested Petitioner and placed him in detention
without any prior notice and reason.
47. Petitioner remains detained at the Otay Mesa Detention Center.
48. Petitioner does not challenge any final order of removal in this action.

VI. RESPONDENTS

49. CHRISTOPHER J. LAROSE is the warden of Otay Mesa Detention Center and
has immediate physical custody over Petitioner. As the local custodian, the
Warden is responsible for the day-to-day administration of the detention facility
where Petitioner is held. The Warden is sued in his/her official capacity as a
representative of the entity exercising direct custody over Petitioner.
50. Respondent JOSEPH FREDEN is the Acting Field Office Director of U.S.
Immigration and Customs Enforcement (ICE), in San Diego California. ICE is the
component of the Department of Homeland Security (DHS) which is responsible
for detaining and removing noncitizens according to immigration law and

1 oversees custody determinations. Mr. Freden is named in his official capacity. In
2 his official capacity, he is a legal custodian of the petitioner.

3 51. Respondent MARKWAYNE MULLIN, in his official capacity as the Secretary of
4 the Department of Homeland Security, is the highest-ranking official in DHS. He
5 has ultimate authority over ICE and the enforcement of immigration laws,
6 including detention policy. DHS, under Respondent Noem's direction, is
7 responsible for the decision to continue Petitioner's detention and to designate
8 him as subject to mandatory custody. He is sued in his official capacity.

9 52. Respondent PAMELA BONDI, in her official capacity as the Attorney General of
10 the United States, oversees the U.S. Department of Justice, which includes the
11 Executive Office for Immigration Review (EOIR). EOIR encompasses the
12 nation's Immigration Courts and the Board of Immigration Appeals (BIA). The
13 Attorney General has ultimate authority over immigration court procedures,
14 including the availability of bond hearings and the interpretation of detention
15 statutes through precedent decisions. Respondent Bondi is sued in her official
16 capacity.

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21 **VII. LEGAL FRAMEWORK**

22 53. Federal immigration law establishes different detention rules depending on a
23 noncitizen's procedural posture.

24 54. Section 1225(b) governs the detention of certain noncitizens seeking admission
25 into the United States, including arriving noncitizens and certain recent entrants
26 placed into admission-related processes.
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- 1 55. Section 1226 governs the arrest and detention of noncitizens already in the
2 country pending a decision on whether they are to be removed.
- 3 56. Section 1231 governs detention after an administratively final order of removal.
- 4 57. The Supreme Court has recognized that the government may detain certain
5 noncitizens “seeking admission” under §§ 1225(b)(1) and (b)(2), while § 1226(a)
6 allows the government to detain noncitizens “already in the country pending the
7 outcome of removal proceedings.” Jennings, 583 U.S. at 289.
- 8 58. Recent district-court decisions in California have held that § 1226, not § 1225,
9 governs detention where the noncitizen entered without inspection, was not
10 apprehended upon entry, lived in the interior for years, and was later arrested
11 pending removal proceedings.
- 12 59. In *Bautista*, the Central District of California held that § 1226(a) governs the
13 detention of noncitizens who entered without inspection, were not detained
14 immediately following entry, and were later apprehended away from the border.
15 813 F. Supp. 3d at 1083–84.
- 16 60. In *Beltran*, this District concluded that the plain text and structure of § 1225 do
17 not support applying that statute to interior noncitizens who were not being
18 inspected upon entry or seeking admission at the time they were apprehended.
19 2025 WL 3078837, at *4–7.
- 20 61. In *Martinez Lopez*, this District likewise held that where a petitioner entered
21 without inspection, was not apprehended upon arrival, and later lived in the
22 country for years before detention, § 1226 governed the detention. 2025 WL
23 3030457, at *2–7.
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1 62. In Velazquez-Beltran, this District again granted habeas relief and ordered a §
2 1226(a) bond hearing after concluding that § 1226, rather than § 1225, governed
3 the detention of a long-term interior resident who entered without inspection and
4 was not apprehended at the border. 2026 WL 524056, at *2–3.
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6 63. More recently, in Ramirez, the court held that where the petitioner had resided in
7 the United States for over twenty years before detention, “the discretionary
8 detention procedures of § 1226 govern Petitioner’s detention, and the Petition
9 must be granted.” No. 3:26-cv-01880-RBM-VET, slip op. at 3 (S.D. Cal. Apr. 9,
10 2026).
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12 64. Petitioner falls into the category addressed by those cases. He entered without
13 inspection in 2008, was not apprehended upon entry, lived in the United States for
14 many years, and was later detained in the interior pending removal proceedings.
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16 65. Respondents cannot properly invoke § 1231 because no final order of removal is
17 at issue here.

18 66. Nor does the present record establish any basis for mandatory detention under §
19 1226(c). Petitioner has no criminal record whatsoever.

20 67. At minimum, therefore, his detention must proceed under the discretionary
21 detention framework of § 1226(a), which includes lawful individualized custody
22 procedures.
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24 68. Even where detention is authorized by statute, the Constitution imposes
25 independent limits on the government’s use of civil immigration detention. See
26 Zadvydas, 533 U.S. at 690.
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1 69. “Freedom from imprisonment from government custody, detention, or other forms
2 of physical restraint, lies at the heart of the liberty that [the Due Process] Clause
3 protects.” Id.

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5 70. Civil detention must bear a reasonable relation to a legitimate government
6 purpose and may not be excessive in relation to that purpose. See *Foucha v.*
7 *Louisiana*, 504 U.S. 71, 80 (1992).

8 71. The Due Process Clause also requires procedures adequate to guard against
9 erroneous deprivation of liberty. *Mathews v. Eldridge*, 424 U.S. 319, 334–35
10 (1976).

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12 72. Where detention is imposed without lawful individualized process, federal courts
13 may and do grant habeas relief.

14 73. Courts have also recognized that a later bond hearing does not necessarily cure
15 the injury from an unlawful detention already imposed. See *E.A. T.-B.*, 795 F.
16 *Supp. 3d* at 1324; *Jorge M.F.*, 534 F. *Supp. 3d* at 1055; *Domingo*, 2025 WL
17 1940179, at *3.

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19 74. Those authorities apply with full force here.

20 **VIII. FACTS**

21 75. Petitioner entered the United States without inspection in 2008.

22 76. Petitioner has resided in the United States continuously for approximately
23 eighteen years.

24 77. Petitioner was not apprehended upon entry.

25 78. Petitioner built his life in the United States over many years prior to the detention
26 challenged here.
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- 1 79. Petitioner is married.
- 2 80. Petitioner's wife resides in the United States and does not currently have lawful
- 3 immigration status.
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- 5 81. Petitioner is the father of three U.S. citizen children.
- 6 82. Two of Petitioner's U.S. citizen children are minors ages fourteen and five.
- 7 83. Petitioner also has a fifteen-year-old U.S. citizen child from a prior relationship.
- 8 84. Petitioner provides support for that child and maintains an ongoing relationship
- 9 with him.
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- 11 85. Petitioner has no criminal record whatsoever.
- 12 86. Petitioner pays taxes in the United States.
- 13 87. Petitioner has no negative immigration history.
- 14 88. Petitioner has an available sponsor in the United States willing to provide housing
- 15 and support if he is released from custody during the pendency of removal
- 16 proceedings.
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- 18 89. On April 28, 2026, ICE arrested Petitioner and transported him to the Otay Mesa
- 19 Detention Center.
- 20 90. Petitioner's detention occurred many years after his entry into the United States.
- 21 91. Petitioner was not detained when he entered the country in 2008.
- 22 92. Petitioner has not received any lawful individualized custody determination
- 23 explaining why detention is necessary.
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- 25 93. Respondents have not identified any criminal basis for detaining Petitioner.
- 26 94. Respondents have not identified any present facts showing that Petitioner is a
- 27 danger to the community.
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1 95. Respondents have not identified any present facts showing that Petitioner is a
2 flight risk.

3 96. Petitioner’s extensive family ties in the United States include his wife and his
4 three U.S. citizen children.

5 97. Petitioner’s financial and community ties include his history of paying taxes.

6 98. Petitioner’s detention separates him from his wife and children, interferes with his
7 ability to support them, and causes continuing hardship to his family.

8 99. Petitioner remains detained at Otay Mesa without a constitutionally adequate
9 custody determination.

10 100. Petitioner does not challenge any final order of removal in this case.

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14 **IX. FIRST CLAIM FOR RELIEF**

15 **Violation of the Immigration and Nationality Act**

16 ***(Detention Contrary to Law)***

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18 Petitioner incorporates by reference the allegations of fact set forth in the preceding
19 paragraphs:

20 100. Petitioner incorporates by reference all prior allegations as if fully set forth
21 herein.

22 101. The INA provides different detention authorities depending on whether a
23 noncitizen is seeking admission, is already in the country pending removal
24 proceedings, or has a final order of removal.

25 102. Petitioner is not in post-final-order detention. Section 1231 therefore does
26 not apply.
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1 103. Petitioner is also not an arriving noncitizen or a person apprehended upon
2 or immediately after entry in the sense contemplated by § 1225(b).

3 104. Petitioner entered the United States in 2008 and was detained by ICE only
4 many years later, while living in the interior of the country.

5 105. Under Bautista, Beltran, Martinez Lopez, Velazquez-Beltran, and
6 Ramirez, detention in that posture is governed by § 1226.

7 106. Because Petitioner has no criminal record, the present record does not
8 establish any basis for mandatory detention under § 1226(c).

9 107. At minimum, Respondents are required to proceed under the discretionary
10 detention framework of § 1226(a).

11 108. Petitioner's continued detention outside the proper statutory framework is
12 contrary to the INA and exceeds Respondents' statutory authority.

13 109. Because Petitioner is in custody in violation of federal law, habeas relief is
14 warranted under 28 U.S.C. § 2241.

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19 **X. SECOND CLAIM FOR RELIEF**

20 **Violation of the Fifth Amendment**

21 ***(Procedural Due Process)***

22 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

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24 110. Petitioner incorporates by reference all prior allegations as if fully set forth
25 herein.

26
27 111. The Fifth Amendment prohibits the federal government from depriving
28 any person of liberty without due process of law.

1 112. Petitioner’s interest in physical liberty is profound. Freedom from
2 detention lies at the core of due process protection.

3 113. Under Mathews v. Eldridge, the Court balances: (1) the private interest
4 affected; (2) the risk of erroneous deprivation and the likely value of additional
5 safeguards; and (3) the government’s interest.

6 114. The first factor strongly favors Petitioner. Civil immigration detention
7 deprives him of fundamental physical liberty and separates him from his wife and
8 three minor U.S. citizen children.

9 115. The second factor also strongly favors Petitioner. Petitioner was detained
10 without any lawful individualized custody determination explaining why
11 detention was necessary despite his many years in the community, his complete
12 lack of criminal history, his history of paying taxes, his family ties, and the
13 existence of an available sponsor.

14 116. The risk of error is especially high where Respondents have not identified
15 any present facts demonstrating dangerousness or flight risk.

16 117. Additional procedural safeguards—specifically, release or a prompt and
17 constitutionally adequate § 1226(a) custody determination—would materially
18 reduce the risk of erroneous deprivation.

19 118. The third factor also favors Petitioner. While the government has a
20 legitimate interest in ensuring appearance and protecting the community, it has
21 little or no legitimate interest in detaining a person with no criminal record and
22 strong ties to the United States without a timely individualized showing.
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1 119. Any later custody process cannot erase the liberty deprivation already
2 inflicted. As federal courts have explained, a post-detention bond hearing is not an
3 adequate substitute for procedures that could have prevented an erroneous
4 detention in the first place. See E.A. T.-B., 795 F. Supp. 3d at 1324; Jorge M.F.,
5 534 F. Supp. 3d at 1055; Domingo, 2025 WL 1940179, at *3

7 120. Because Petitioner was deprived of liberty without constitutionally
8 sufficient procedures, his detention violates the Due Process Clause of the Fifth
9 Amendment.

10 121. Habeas relief is warranted.

12 **XI. THIRD CLAIM FOR RELIEF**

13 **Violation of the Administrative Procedure Act**

14 ***(5 U.S.C. § 706 – Arbitrary, Capricious, and Contrary to Law Agency Action)***

15 Petitioner incorporates by reference all preceding paragraphs as if set forth fully herein:

16 122. The APA requires courts to hold unlawful and set aside agency action that
17 is arbitrary, capricious, contrary to law, or in excess of statutory authority. 5
18 U.S.C. § 706(2)(A), (C).

19 123. DHS’s decision to arrest and continue detaining Petitioner fixed his
20 custody status and subjected him to ongoing confinement.

21 124. That detention decision is contrary to law to the extent it rests on the
22 wrong statutory framework rather than the discretionary detention procedures of §
23 1226.
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1 132. Here, Respondents have not identified any individualized present facts
2 showing that Petitioner poses a danger to the community or a flight risk.

3 133. Petitioner has no criminal record whatsoever.

4 134. Petitioner has longstanding community and family ties in the United States,
5 including his wife and three U.S. citizen children.
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7 135. Petitioner has a sponsor willing to house and support him during removal
8 proceedings.

9 136. Petitioner pays taxes and has been living in the community for years.

10 137. The current record does not show that continued detention is necessary to
11 secure his appearance or protect the community.
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13 138. Civil detention based on no demonstrated present need is arbitrary.

14 139. Because Petitioner’s detention is not shown to be reasonably related to any
15 proven legitimate governmental objective, and is excessive in relation to any
16 articulated objective, it violates substantive due process.
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19 **XIII. FIFTH CLAIM FOR RELIEF**

20 **Immediate Release Required; Alternatively, Prompt Custody Determination Under 8**

21 **U.S.C. § 1226(a)**

22 Petitioner incorporates by reference all prior allegations as if fully set forth herein:
23

24 Recent authority confirms that immediate release is an appropriate remedy where a
25 person is detained under the wrong statutory framework or without constitutionally
26 adequate process.
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1 141. In Ramirez, the court held that where the petitioner had lived in the United States for
2 over twenty years before being detained, “the discretionary detention procedures of §
3 1226 govern Petitioner’s detention, and the Petition must be granted.” No. 3:26-cv-
4 01880-RBM-VET, slip op. at 3.

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6 142. The court further held that immediate release, rather than a bond hearing, was the
7 appropriate remedy.

8 143. The same reasoning applies here. Petitioner entered in 2008 and was detained only
9 after approximately eighteen years in the country.

10 144. Petitioner’s detention is therefore governed by § 1226, and Respondents have not
11 provided a lawful individualized custody determination justifying continued detention.

12 145. Immediate release is appropriate because a later hearing would not undo the injury
13 from detention already imposed. See E.A. T.-B., 795 F. Supp. 3d at 1324; Jorge M.F.,
14 534 F. Supp. 3d at 1055; Domingo, 2025 WL 1940179, at *3.

15 146. Immediate release is especially appropriate here because Respondents have not
16 identified any present facts showing that Petitioner poses a danger to the community or a
17 flight risk.

18 147. Petitioner has no criminal record, pays taxes, has three U.S. citizen minor children,
19 and has identified a sponsor who can support him during removal proceedings.

20 148. In the alternative, if the Court declines to order immediate release outright, the Court
21 should require Respondents to provide Petitioner with a prompt custody determination
22 within five (5) days before a neutral decisionmaker under the § 1226(a) framework.

23 149. At that hearing, Respondents should bear the burden of proving by clear and
24 convincing evidence that Petitioner poses a danger to the community or a risk of flight.

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1 150. If Respondents fail to provide such a hearing within the time ordered by the Court,
2 Petitioner should be immediately released.

3 151. The Court should also prohibit Respondents from transferring Petitioner outside this
4 District during the pendency of this action absent prior Court authorization.
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6 **XIV. PRAYER FOR RELIEF**

7 WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- 8 a. Assume jurisdiction over this Petition pursuant to 28 U.S.C. §§ 2241 and 1331;
- 9 b. Issue the writ or an order to show cause under 28 U.S.C. § 2243;
- 10 c. Declare that Petitioner’s continued detention is unlawful and violates the INA, the
11 Fifth Amendment, and the APA;
- 12 d. Declare that Petitioner’s detention is governed by 8 U.S.C. § 1226 and not by 8
13 U.S.C. § 1225(b) or 8 U.S.C. § 1231;
- 14 e. Declare that Respondents’ detention of Petitioner without any constitutionally
15 adequate individualized custody determination violates procedural due process;
- 16 f. Declare that Respondents’ continued detention of Petitioner without any
17 demonstrated present need violates substantive due process;
- 18 g. Declare that Respondents acted arbitrarily, capriciously, and contrary to law within
19 the meaning of 5 U.S.C. § 706;
- 20 h. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner
21 from custody, subject to reasonable conditions of supervision if the Court deems
22 appropriate;
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- 1 i. In the alternative, order Respondents to provide Petitioner with a prompt custody
- 2 determination within five (5) days before a neutral decisionmaker under 8 U.S.C. §
- 3 1226(a);
- 4
- 5 j. Order that at any such custody determination the burden shall be on the government
- 6 to establish by clear and convincing evidence that Petitioner poses a danger to the
- 7 community or a risk of flight;
- 8
- 9 k. Order that if Respondents fail to provide such a custody determination within the
- 10 time specified, Petitioner shall be immediately released;
- 11
- 12 l. Issue temporary and/or preliminary injunctive relief prohibiting Respondents from
- 13 continuing Petitioner’s unlawful detention during the pendency of this action;
- 14
- 15 m. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this
- 16 Court while this Petition is pending, absent prior leave of Court;
- 17
- 18 n. Award Petitioner reasonable attorneys’ fees and costs to the extent authorized by
- 19 law, including under the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- 20
- 21 o. Grant such other and further relief as the Court deems just and proper.

22 Respectfully submitted on:

23 Dated: May 05, 2026

24 /s/ Daniel S. Castaneda
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I, Daniel S. Castaneda, submit this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully submitted on:

Dated: May 05, 2026

/s/ Daniel S. Castaneda
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