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

DEISSON OSMANDY VICENTE GALVEZ)

Case No. **'26CV3072 LEK SBC**

Petitioner,)

**PETITION FOR WRIT OF
HABEAS CORPUS**

v.)

CHRISTOPHER LAROSE, in his)
official capacity as Warden of Otay Mesa Detention Center)
Detention Center; **GREGORY J. ARCHAMBEAULT**, in)
his official capacity as San Diego Field)
Office Director, ICE Enforcement)
Removal Operations; **TODD LYONS**, in)
his official capacity as Acting Director of)
Immigration and Customs Enforcement;)
MARKWAYNE MULLI, in his official)
capacity as Secretary of Homeland)
Security; and **TODD BLANCHE**, in his)
official capacity as Attorney General of)
the United States,)

Respondents.)

INTRODUCTION

1. This is a Petition for a Writ of Habeas Corpus file on behalf of Petitioner Deisson Osmandy Vicente Galvez to remedy his unlawful detention. Petitioner has been detained since April 28, 2026. Petitioner is a forty (40) year-old native of Guatemala. Petitioner entered the United States on September 1, 2002, without being admitted or

inspected. Petitioner was seventeen (17) years-old when he entered the country. He has been residing in Fullerton, California since 2007. On April 28, 2026, Respondent was leaving his home and was on his way to work in Fullerton, California when he was apprehended by ICE officers.

2. Petitioner complied with Customs and Immigration Enforcement (“ICE”) agents’ orders and provided his driver’s license as proof of identity.
3. Petitioner is currently detained at the Otay Mesa Detention Center by U.S. Customs and Immigration Enforcement (“ICE”) and is subject of a pending removal hearing.
4. Petitioner is charged with having entered the United States without inspection and being present without valid immigration documents. 8 USC § 1182(a)(6)(A)(i) §1182(a)(7)(A)(i).
5. On April 28, 2026, DHS filed Form I-862, Notice to Appear charging Petitioner as an alien present without admission or Parole under INA section 212(a)(6)(A)(i).
6. On May 11, 2026, Petitioner had a bond hearing before Immigration Mark Sameit at the Otay Mesa Immigration Court.
7. On May 11, 2026, the Immigration Judge (“IJ”) denied Petitioner’s bond request, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and concluding that Petitioner was instead subject to mandatory detention under 8 U.S.C. § 1225(b)(2).
8. At his bond hearing, Petitioner’s counsel argued that under the nationwide injunction and class action certification in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, Petitioner should be entitled to a bond hearing under 8 U.S.C. § 1226(a). The IJ acknowledged the district court’s order in *Maldonado Bautista v.*

Santacruz but instead relied on *Matter of Yajure Hurtado* to find that the immigration court lacks jurisdiction over the request for custody redetermination. Further the IJ noted that the Ninth Circuit Court of Appeals' recent order of administrative stay prevented proceeding with Petitioner's bond hearing.

9. As relief from removal, Petitioner will be seeking cancellation of removal and adjustment of status for certain nonpermanent residents ("EOIR-42B"), asylum, withholding of removal and protection under the convention against torture ("CAT")
10. Petitioner has lived in the United States for twenty-three (23) years, he has four U.S. citizen children and his wife is pregnant with his fifth child.
11. Petitioner has a master hearing scheduled for June 3, 2026.
12. Petitioner has lived in the United States most of his life and while he has prior criminal convictions, he is still entitled to an individualized bond hearing. Prior to his detention, Petitioner was self-employed working in construction for over ten (10) years.
13. Petitioner's detention on this basis violates the plain language of the INA and its implementing regulations.
14. Subparagraph 1225(b)(2)(A) applies to individuals who are apprehended on arrival in the United States. It states that an "applicant for admission" who is "seeking admission" shall be detained for a removal proceeding. *Id.* It does not apply to individuals like Petitioners who are arrested and detained by ICE after having entered and begun residing in the United States. Instead, such individuals are subject to a different statute, 8 USC § 1226(a), that allows for release on conditional parole or

bond. The statute expressly applies to individuals who, like Petitioners, are charged as inadmissible for having entered the United States without inspection.

15. Consistent with the statutory framework, noncitizens who entered the United States without inspection, were not immediately apprehended pursuant to § 1225(b)(or subjected to expedited removal under § 1225(b)(1)), and are not subject to a final order of removal, are generally detained under § 1226.
16. As a result, unless Petitioner has an enumerated criminal offense subjecting him to § 1226(c), he is entitled to bond hearings under § 1226(a) before an IJ to determine whether their detention is justified by danger or flight risk.
17. Petitioner is entitled to an individualized custody determination following apprehension by DHS and, if not released, a bond determination by the Immigration Court.
18. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus, and order Respondents to immediately release him from custody.

PARTIES

19. Petitioner, Deisson Osmandy Vicente Galvez, is a native and citizen of Guatemala who is currently in the custody of the DHS at the Otay Mesa Detention Facility in San Diego, California.
20. Respondent Todd Blanche is the Attorney General of the United States and is the most senior official in the United States Department of Justice (“DOJ”). He has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for

Immigration Review (“EOIR”), which administers the immigration courts and the Board of Immigration Appeals (“BIA”). He is named as a party in his official capacity.

21. Respondent, Markwayne Mullin, is the Secretary of the DHS and he has authority over the detention and departure of noncitizens, like Petitioner, because he administers and enforces immigration laws pursuant to section 402 of the Homeland Security Act of 2002. In this role, Respondent Mullin has “control direction, and supervision” of all employees of DHS, including Respondent Cantu. See U.S.C. § 1003(a)(2). Mr. Mullin, is named as a party in his official capacity.
22. Respondent, Gregory J. Archambeault, is the San Diego Filed Office Director for ICE/ERO, which has administrative jurisdiction over Petitioner’s case. As such, Respondent Archambeault is the federal official most directly responsible for overseeing the Otay Mesa Detention Center. He is a legal custodian of Petitioner and is named in his official capacity.
23. Respondent, Christopher Larose, is the Warden of the Otay Mesa Detention Center, which is operated by CoreCivic and contracted by DHS. As such, he is the immediate physical custodian of Petitioner and he is named in his official capacity.

FACTUAL ALLEGATIONS

24. Petitioner is a forty (40) year-old male and citizen of Guatemala. He has resided continuously in the United States since 2002.

25. Petitioner entered the United States in 2002 without inspection and has remained in the United States for twenty-three (23) years. Petitioner has no previous contact with immigration authorities. **Exhibit A.** Petitioner's NTA.
26. Petitioner has four U.S. Citizen children ages eight (8), eleven (11), fourteen (14), fifteen (15). Petitioner's wife is currently seven months pregnant expecting his fifth child.
27. Petitioner has deep ties to the Fullerton, California area, as he has worked in construction for ten (10) years. As support letters from his submission in support of his bond redetermination hearing, he is a ward worker who is loving, respectful, and missed dearly by his family.
28. On April 28, 2026, Petitioner was he was leaving his home to go to work when ICE agents took him into custody.
29. Petitioner is now detained at the Otay Mesa Detention Center, over 124 miles away from his family who has to drive two hours to visit him in custody.
30. DHS placed Petitioner in removal proceedings before the Otay Mesa Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with, *inter alia*, being inadmissible under 8 USC § 1182(a)(6)(A)(i) as someone who allegedly entered the United States without inspection.
31. On May 11, 2026, Petitioner had a bond hearing and an Otay Mesa Immigration Judge issued a decision stating that the immigration court lacked jurisdiction to conduct a bond redetermination hearing because Petitioner is subject to mandatory

detention under 8 USC § 1125(b)(2)(A) and stating that the court lacked jurisdiction.

Exhibit B. Order of the Immigration Judge dated May 11, 2026.

32. As a result, Petitioner remains in detention where he will be applying for cancellation of removal for non-permanent residents (42B), asylum, withholding of removal and protection under CAT. Without relief from this Court, Petitioner faces the prospect of months, or even years, in immigration custody, separated from his family and community.

JURISDICTION

33. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security (DHS). He is detained at the Otay Mesa Detention Center in San Diego, California and is under the direct control of Respondents and their agents.
34. Petitioner challenges his custody as such jurisdiction is proper in this Court. While the courts of appeals have jurisdiction to review removal orders through petitions for review pursuant to 8 U.S.C. § 1252(a)(1) and (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241, to hear habeas petitions by noncitizens challenging the lawfulness of their detention. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075-76 (9th Cir. 2006).
35. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

36. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
37. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
38. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

VENUE

39. Venue is properly with the Southern District of California pursuant to 28 USC § 1391(e) because Petitioner is detained at the Otay Mesa Detention Center in San Diego, California, which is within the geographical jurisdiction of the U.S. District Court for the Southern District of California, and because the events or omissions giving rise to this claim occurred in this District. Further, this is a civil action in which the Respondents are employees or officers of the United States or, as in the case of Respondent Larose, contracted by the United States.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

40. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).
41. Here, Petitioner argues that he has exhausted his administrative remedies, and any further requests for parole or reconsideration would be futile. Moreover, an immigration judge denied Petitioner bond on May 11, 2026. Therefore, Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

LEGAL FRAMEWORK

42. A writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl. 2). “The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). “Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district

courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). The petitioner bears the burden of demonstrating that “[h]e is in custody in violation of the Constitution or laws or treaties of the United States.” *Id.* § 2241(c)(3).

Due Process Clause

43. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint— lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
44. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).
45. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, *id.* § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA’s detention authorities).
46. Since the Supreme Court’s *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) decision, the Ninth Circuit has expressed “grave doubt” that “any statute that allows for arbitrary

prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so." *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

47. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).
48. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification.
49. As a result, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249- 50 (1972) (noting that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v.*

Finney, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”).

50. Courts have found that automatic detention pending appeal “after a judicial officer has determined that release [] is appropriate,” where the government has made no “showing of dangerousness or flight risk,” “renders the continued detention arbitrary” and “raises a substantial Fifth Amendment claim.”

Mohammed H. v. Trump, 781 F. Supp. 3d 886, 895 (D. Minn. 2025). Whilst this case is in the context of the automated stay of bond on appeal, the same reasoning applies here: “... no special justification exists that outweighs the individual’s constitutionally protected interest in avoiding physical restraint . . .” *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1077 (N.D. Cal. 2004).

51. Courts that apply a reasonableness test have considered three main factors in determining whether prolonged detention is reasonable. First, courts have evaluated whether the noncitizen has raised a “good faith” challenge to removal—that is, the challenge is “legitimately raised” and presents “real issues.” *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a “function of the length of the detention,” with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *accord Sopo*, 825 F.3d at 1217-18. Third, courts consider the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention, when the parties could “have reasonably predicted that Chavez-Alvarez’s appeal would take a substantial amount of time, making his

already lengthy detention considerably longer”); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

52. Due process also requires certain minimal procedures at bond hearings. First, to justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof at least by clear and convincing evidence. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where the detainee was afforded a “full-blown adversary hearing,” requiring “clear and convincing evidence” before a “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody government must bear the burden of proof by clear and convincing evidence to justify continued detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a noncitizen’s ability to pay a bond when determining the appropriate conditions of release.

53. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof at least by clear and

convincing evidence. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where the detainee was afforded a “full-blown adversary hearing,” requiring “clear and convincing evidence” before a “neutral decisionmaker”); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia*, they placed burden on detainee); see also *Padilla v. Immigration & Customs Enft*, 379 F. Supp. 3d 1170 (W.D. Wash. 2019) (requiring the government to bear the burden of proof for class members who receive bond hearings after being found to have a credible fear of persecution or torture); *Banda v. McAleenan*, 385 F. Supp. 3d 1120-21 (in case of arriving asylum seeker, government must bear burden of proof to justify continued detention after noncitizen had been detained for more than 18 months).

54. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
55. First, incarceration deprives noncitizens of a “profound” liberty interest—one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091- 92; *see also Foucha*, 504 U.S. at 80 (“It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” (citation omitted)).
56. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack

English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings because “numerous factors combine to magnify the risk of erroneous factfinding” including that “parents subject to termination proceedings are often poor, uneducated, or members of minority groups” and “[t]he State’s attorney usually will be expert on the issues contested”). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing. *See infra* ¶ 66.

57. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen’s immigration records and other information that it can use to make its case for continued detention.

58. In light of these considerations, “[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process.” *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

59. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. Her interest in liberty and family unity is paramount; the Government’s blanket detention policy under *Yajure Hurtado* creates an extreme risk of erroneous deprivation by denying her any opportunity to demonstrate eligibility for release; and the Government’s interest in ensuring appearance can be served by far less restrictive means. Accordingly, due process requires an individualized bond hearing under § 1226(a).

60. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to detention must be considered in determining whether prolonged incarceration is warranted.
61. Due process likewise requires consideration of a noncitizen's ability to pay a bond. “Detention of an indigent ‘for inability to post money bail’ is impermissible if the individual's ‘appearance at trial could reasonably be assured by one of the alternate forms of release.’” *Id.* at 990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). As a result, in determining the appropriate conditions of release for immigration detainees, due process requires “consideration of financial circumstances and alternative conditions of release” to prevent against detention based on poverty. *Id.*
62. Evidence about immigration detention and the adjudication of removal cases provide further support for the due process right to a bond hearing in cases of prolonged detention.

63. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: “the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. “And in some cases[,] the conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).
64. These conditions and obstacles only further underscore the serious due process concerns that prolonged immigration detention pose for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding continued detention.
65. Here, the Respondents can neither show that the continued detention of petitioner following his detention is reasonably related to the original purpose and the *Mathews* tests are satisfied. Similarly, no procedural safeguards are offered to those who remain in custody pending an appeal of a decision on termination of removal proceedings.

Maldonado Bautista v. Santacruz

66. In Maldonado Bautista, the United States District Court for the Central District of California found that “the DHS policy is unlawful” and “the interpretation in *Yajure-Hurtado*, 29 I. N. Dec. 2016, which contradicts the Court’s reasoning is no longer controlling.” Maldonado Bautista v. Santacruz, No. 5:25-cv-018733-sss-bfm, --- F. Supp. 3d ---, 2025WL 3719897, at *1, judgment entered sub nom. Maldonado Bautista v. Noem. The District court vacated the DHS Policy under the Administrative Procedure Act. *Id.* at *22. The court certified the “Bond Eligibility Class,” which defined as: All noncitizens in the United States without lawful status who (1) entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. Maldonado Bautista, 2025 WL 3713987, at *32.

67. Petitioner asserts that he is a member of the Bond Eligible Class in Maldonado Bautista v. Santacruz, and thus is entitled for a bond hearing before an IJ pursuant to 8 U.S.C. § 1226(a).

8 USC 1225 v 1226

68. Full removal proceedings under 8 U.S.C. § 1229a are “the standard mechanism for removing inadmissible noncitizens.” *Make the Rd. N.Y. v. Noem*, No. 25-cv-190 (JMC), 2025 WL 2494908, at *2 (D.D.C. Aug. 29, 2025); *see also Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020) (“The usual removal process

involves an evidentiary hearing before an immigration judge, and at that hearing an alien may attempt to show that he or she should not be removed.”). These proceedings are initiated by serving the noncitizen with a Form I-862 “notice to appear” in immigration court. 8 U.S.C. § 1229(a)(1).

69. Full removal proceedings “take place before an [immigration judge (“IJ”)], an employee of the Department of Justice (DOJ) who must be a licensed attorney and has a duty to develop the record in cases before them.” *Coal. for Humane Immigrant Rts. v. Noem*, No. 25-cv-872 (JMC), — F.Supp.3d —, —, 2025 WL 2192986, at *3 (D.D.C. Aug. 1, 2025) (citing 8 U.S.C. § 1229a(a)(1), (b)(1)).
70. In full removal proceedings, noncitizens have rights to hire counsel, to a reasonable opportunity to examine evidence against them, to present evidence on their own behalf, and to cross-examine any government witnesses. 8 U.S.C. § 1229a(b)(4)(A)–(B). “[D]ue to the built in procedures,” full removal proceedings “typically take[] place over the course of multiple hearings,” which “allows time for noncitizens to both gather evidence in support of petitions for relief available in immigration court ... and seek collateral relief from other components of [the Department of Homeland Security (“DHS”)].” *Coal. for Humane Immigrant Rts.*, — F.Supp.3d at —, 2025 WL 2192986, at *3.
71. Accordingly, “[w]hen a person is apprehended under § 1226(a), an ICE officer makes the initial custody determination.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022) (citing 8 C.F.R. § 236.1(c)(8)). If the detainee disagrees with the officer’s determination, they “may request a bond hearing before an IJ at any time before a removal order becomes final.” *Id.* at 1197 (citing 8 C.F.R. §§ 236.1(d)(1),

1003.19). The procedural posture progresses and the detainee must then “establish to the satisfaction of the Immigration Judge . . . that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight.” *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017) (quoting *In re Guerra*, 24 I. & N. Dec. 37, 38 (B.I.A. 2006)). Appeal on an adverse decision is available with the BIA. *Id.* at 983 (citing § 236.1(d)(3)).

72. By contrast, expedited removal proceedings are a “more streamlined ... form of proceeding applicable only to certain noncitizens,” whereby removal orders are “usually issued within a few days, if not hours.” *Id.* (citation omitted). In expedited removal proceedings, the initial fact finder is an immigration officer, not an IJ. 8 C.F.R. § 235.3(b)(2)(i). The immigration officer asks the noncitizen a series of questions regarding (1) their “identity, alienage, and inadmissibility,” and (2) their “intention to apply for asylum” or potential fear of persecution, torture, or return to their country. *Id.* at § 235.3(b)(2)(i), (b)(4). During this questioning, noncitizens do not have a right to counsel. *Id.* at § 235.3(b)(2)(i). If the immigration officer determines that the noncitizen is inadmissible under § 1182(a)(6)(C) or 1182(a)(7), “the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 1158 ... or a fear of persecution.” 8 U.S.C. § 1225(b)(1)(A)(i).

73. 8 U.S.C. § 1225 enumerates the procedures allowing the government to detain (mandatory detention) certain “applicants for admission.” Under § 1225, an “applicant for admission” is a noncitizen “present in the United States who has not been admitted or who arrives in the United States.” 8 U.S.C. § 1225(a)(1).

74. INA § 1225(b)(1) authorizes expedited removal for certain “applicants for admission” in two categories. First, noncitizens “arriving in the United States” that are determined by an immigration officer to be inadmissible due to misrepresentation or failure to meet documents requirements. *Id.* at § 1225(b)(1)(A)(i); *see also id.* at § 1182(a)(6)(C), (a)(7).
75. Second, noncitizens that (a) are inadmissible because of misrepresentation or failure to meet documents requirements; (b) have not “been admitted or paroled into the United States”; (c) have not “affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility”; and (d) have been designated by the Attorney General for expedited removal. *Id.* at § 1225(b)(1)(A)(iii).
76. 8 U.S.C. § 1226 “provides the general process for arresting and detaining aliens who are present in the United States and eligible for removal.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). The provision “distinguishes between two different categories” of noncitizens. *Jennings*, 583 U.S..
77. These two categories of noncitizens subject to § 1225(b)(1) are subject to mandatory detention “until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297. Individuals that fall into § 1225(b)(1) are “normally ordered removed ‘without further hearing or review’ pursuant to an expedited removal process” unless claiming asylum or a fear of persecution. *Jennings*, 53 U.S. at 287 (first quoting § 1225(b)(1)(A)(i); then citing § 1225(b)(1)(A)(ii)).

78. Noncitizens who are “seeking admission” and not covered by the expedited removal provisions in § 1225(b)(1) are subject to § 1225(b)(2). *See id.* At 287. This category would include, for example, noncitizens who are arriving in the United States, seek admission, and are inadmissible for some reason other than misrepresentation or failure to meet documents requirements. *See* 8 U.S.C. § 1182(a)(2)–(3). Subject to limited exceptions, the § provides that such noncitizens “shall be detained” for full removal proceedings under § 1229a “if the examining immigration officer determines” that the noncitizen “is not clearly and beyond a doubt entitled to be admitted.” *Id.* at § 1225(b)(2)(A).
79. Under § 1226(a), the “default rule,” *id.*, a noncitizen “may be arrested and detained” “[o]n a warrant issued by the Attorney General” if their removal proceedings are pending, 8 U.S.C. § 1226(a). Detention pursuant to § 1226(a) is not mandatory. If the noncitizen was not charged with, arrested for, or convicted of certain criminal offenses enumerated in § 1226(c), the government has discretion to release them on “bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or ... conditional parole.” *Id.* at § 1226(a)(2)(A)–(B).
80. Until this year, DHS has applied § 1226(a) and its discretionary release and review of detention “to the vast majority of noncitizens allegedly in this country without valid documentation”—a practice codified by regulation. *Salcedo Aceros*, 2025 WL 2737503, at *3.
81. The Government now contends that mandatory detention under § 1225 is the appropriate detention authority for noncitizens, such as petitioner, who have not been

admitted or paroled. *See Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (citing *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)).

82. In recent weeks, several district courts have held that the Government's new, and more expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect on the basis that this reading of the statute would render 1226(c) inoperable or moot. *See, e.g., Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).

CLAIM FOR RELIEF

COUNT I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

83. Petitioner repeats and realleges the foregoing paragraphs as if fully set forth and incorporated herein by reference.

84. Petitioner is in custody "under or by color of the authority of the United States" and in custody "in violation of the Constitution or laws . . . of the United States." 28 U.S.C. § 2241.

85. The Fifth Amendment's Due Process Clause provides that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." It specifically "entitles aliens to due process of law in deportation proceedings." *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993). The Supreme Court held more than a century ago that civil detention of a removable noncitizen violates the

Constitution if it is punitive. *Wong Wing v. United States*, 163 U.S. 228, 237-38, 16 S. Ct. 977, 41 L. Ed. 140 (1896).

86. Noncitizens subject to civil immigration detention “cannot be subjected to conditions that ‘amount to punishment.’” See *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004) (quoting *Bell v. Wolfish*, 441 U.S. 520, 535, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979)).

At some point, civil detention can become punitive, resulting in a due process violation. *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021).

87. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

88. Nonetheless, the Otay Mesa Immigration Court Immigration Judge has a policy and practice of applying §1225(b)(2) to the Petitioner and did so during his bond hearing.

89. The application of § 1225(b)(2) to Petitioner violates the Immigration and Nationality Act.

COUNT II

**VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT UNLAWFUL DENIAL
OF BOND**

90. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.
91. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.
92. Nonetheless, the Otay Mesa Immigration Court IJs have a policy and practice of applying § 1225(b)(2) to Petitioner.
93. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

COUNT III

**VIOLATION OF THE BOND REGULATIONS, 8 CFR § 236.1, 1236.1 AND
1003.19 UNLAWFUL DENIAL OF RELEASE OF BOND**

94. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

95. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.
96. Nonetheless, DHS and the Otay Mesa Immigration Court have adopted a policy and practice of applying § 1225(b)(2) to Petitioner.
97. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT IV

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT CONTRARY TO LAW AND ARBITRARY AND CAPRICIOUS AGENCY POLICY

98. Petitioners incorporate by reference the allegations of fact set forth in paragraphs 1-37 as if fully set forth herein.

99. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

100. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Defendants. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

101. Nonetheless, DHS and the Otay Immigration Court Immigration Judge have adopted a policy and practice of applying § 1225(b)(2) to Petitioner.

102. Defendants have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies’ policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

103. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

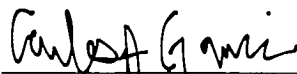
Wherefore, Petitioner respectfully requests this Court to grant the following:

104. Assume jurisdiction over this matter;
105. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
106. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
107. Issue a Writ of Habeas Corpus ordering the Respondents to release Petitioner from custody; hold a hearing if warranted; determine that Mr. Vicente Galvez detention is not justified because the government has not established by clear and convincing evidence that he presents a risk of flight or a danger to the community in light of the available alternatives;
108. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
109. Declare that Mr. Vicente Galvez' continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;
110. Declare that Respondents' conduct violates the Administrative Procedure Act, 5 U.S.C. §§ 702 and 706, as arbitrary, capricious, and not in accordance with law;
111. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Mr. Vicente Galvez an individualized bond hearing before an impartial immigration judge within 14 days, at which the

government bears the burden to justify continued detention by clear and convincing evidence;

112. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
113. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



Carlos A. Garcia, Esq. (CA SBN 314732)
Law Office of Marisol Rogel, P.C.
2424 W. 1st St. #330
Santa Ana, CA 92703
Telephone: (714) 805-6075
E-mail: Marisol@Rogellawoffice.com

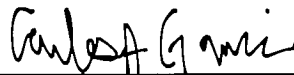
Counsel for Petitioner

Dated: May 16, 2026

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

I represent Petitioner, Deisson Osmandy Vicente Galvez, 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 16th day of May 2026.



Carlos A. Garcia, Esq.
Attorney for Petitioner

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B. PETITIONER’S BOND DENIAL DATED MAY 11, 2026.....5-6

Exhibit A

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED] FINS: [REDACTED] DOB: [REDACTED] File No: [REDACTED] Event No: [REDACTED]
In the Matter of: .
Respondent: DEISSON OSMANDY VICENTE GALVEZ currently residing at:
7488 CALZADA DE LA FUENTE SAN DIEGO, CALIFORNIA, 92154-0000 +1 (619) 661-3801
(Number, street, city, state and ZIP code) (Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of GUATEMALA and a citizen of GUATEMALA ;
3. You arrived in the United States at or near unknown place , on or about September 1, 2002 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act;

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an Immigration Judge of the United States Department of Justice at:

7488 CALZADA DE LA FUENTE SAN DIEGO CA US 92154
(Complete Address of Immigration Court, including Room Number, if any)

on May 14, 2026 at 08:00 AM to show why you should not be removed from the United States based on
(Date) (Time)

the charge(s) set forth above.

SANTIAGO MELENDEZ
Date: 2026.04.28 12:57:00
0343354613.CBP

Acting/Patrol Agent in Charge

(Signature and Title of Issuing Officer)

Date: April 28, 2026

San Diego, California
(City and State)

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Notice to Respondent

Alien Registration: This Notice to Appear serves as evidence of your alien registration pursuant to INA § 262. If you are 18 years or older, failure to carry this Notice to Appear, or other evidence of alien registration as provided in 8 C.F.R. § 264.1(b), on your person at all times is a criminal offense pursuant to INA § 264(e), for which you may be subject to a criminal penalty of \$5,000 and imprisonment of up to 30 days.

Notification to the Department of Homeland Security (DHS) of Change of Address: All aliens aged 14 years or older, and all parents and legal guardians of aliens under the age of 14, must report a change of address to U.S. Citizenship and Immigration Services, a component of DHS, within 10 days of moving, pursuant to INA § 265(a). Failure to notify DHS of your change of address is a criminal offense pursuant to INA § 266(b), for which you may be subject to a criminal penalty of \$5,000 and imprisonment of up to 30 days. More information is available online at <https://www.uscis.gov/addresschange>. This obligation is in addition to your obligation to notify the Immigration Court of your change of address.

Representation: If you choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to INA §§ 240(b)(4)(A) and 282. Unless you request otherwise in writing, no hearing will be scheduled earlier than 10 days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost is provided with this notice.

Conduct of the hearing: At your hearing you will be given the opportunity to admit or deny any or all of the allegations in this Notice to Appear, including that you are inadmissible or deportable. You will be advised by the Immigration Judge of any relief from removal for which you may appear eligible, including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the Immigration Judge. At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross-examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the Immigration Judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/I-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to INA § 208(a)(2)(B).

Notification to the Immigration Court of Change of Address: You are required to notify the Immigration Court, in writing, of your full mailing address and telephone number (if any). You must also immediately notify the Immigration Court whenever you change your address or telephone number during the course of this proceeding by using Form EOIR-33/IC, Change of Address/Contact Information Form. Notices of hearing will be mailed to this address. If you file a Form EOIR-33/IC with the Immigration Court, you must serve a copy on the ICE Office of the Principal Legal Advisor. If you change your address or telephone number during the course of this proceeding and do not submit Form EOIR-33/IC, the Immigration Court shall not be required to provide you with written notice of your hearing. This obligation is in addition to your obligation to notify DHS of your change of address.

Failure to Appear: If you fail to attend the hearing at the date, time, and place designated on this notice, or any date, time, or place later directed by the Immigration Court, the Immigration Judge shall order you removed in your absence upon determining that you were provided written notice and are removable. If you are arrested by ICE after being ordered removed in your absence by the Immigration Judge pursuant to INA § 240(b)(5), you will be required to pay a minimum fee of \$5,000, adjusted for inflation, or a greater amount as established by the Secretary of Homeland Security.

Mandatory Duty to Depart the United States: If you become subject to a final order of removal as defined in 8 C.F.R. § 1241.1, you must depart the United States within 90 days of the order. If you do not depart, you may be subject to a civil penalty under INA § 274D(a) of \$500 per day, adjusted for inflation, and imprisonment of up to 4 years (or 10 years if you belong to certain specified classes described in INA § 237(a)(1)(E), (2), (3), or (4)). If you are granted voluntary departure, you must comply with the terms of the voluntary departure order. If you fail to voluntarily depart within the time provided, you will be subject to a final order of removal, may be ineligible for certain immigration benefits for a period of 10 years from the date you overstayed the order, and may be subject to a civil penalty from \$1,000 to \$5,000, adjusted for inflation. For additional information, refer to the order granting voluntary departure, as well as INA § 240B(d).

Sensitive Locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in INA § 239(e)(1), such action complied with 8 U.S.C. § 1367.

Upon information and belief, the language that the alien understands is SPANISH

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Refused to Sign

(Signature of Respondent)

Before:

JAIME R BECERRA
Date: 2026.04.28 11:38:27
0292209147.CBP



Border Patrol Agent

(Signature and Title of Immigration Officer)

Date: 04/28/2026

Certificate of Service

This Notice To Appear was served on the respondent by me on April 28, 2026 in the following manner and in compliance with section 239(a)(1) of the Act.

- In person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Refused to Sign

(Signature of Respondent if Personally Served)

JAIME R BECERRA
Date: 2026.04.28 11:38:27
0292209147.CBP



Border Patrol Agent

(Signature and Title of officer)

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security

Continuation Page for Form


I862

Alien's Name DEISSON OSMANDY VICENTE GALVEZ	File Number 	Date April 28, 2026
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ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature  SANTIAGO MELENDREZ0343354613.CBR	Title Acting/Patrol Agent in Charge
---	---

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Exhibit B

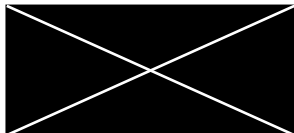


UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:

VICENTE GALVEZ, DEISSON
OSMANDY

To:



A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

05/11/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- Denied, because
The evidence indicates that the respondent entered the country without inspection and thus is an applicant for admission under INA section 235(a)(1) and subject to mandatory detention under INA section 235(b)(1)(B)(iii)(IV). Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). The court notes that the Maldonado Bautista orders were stayed by the 9th Circuit on 6 March 2025. See Maldonado Bautista v. DHS, No 26-1044 (9th Cir., Mar. 6, 2026).
- Granted. It is ordered that Respondent be:
 - released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:
- Other:



Immigration Judge: SAMEIT, MARK 05/11/2026

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due: 06/10/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : VICENTE GALVEZ, DEISSON OSMANDY | A-Number : 

Riders:

Date: 05/11/2026 By: Rosa Rodriguez, Court Staff

CERTIFICATE OF SERVICE

I, Carlos A. Garcia, hereby certify that on May 16 2026, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. A copy of the Petition for Writ of Habeas Corpus and all attachments was mailed on May 16, 2026, by USPS Certified Priority Mail with Return Receipts to each of the following individuals:

Christopher LaRose
Otay Mesa Detention Center
ATTN: Warden
P.O. Box 438150
San Diego, CA 92143

Gregory Archambeault, San Diego Field Office Director
San Diego Field Office, U.S. Immigration and Customs Enforcement
880 Front Street #2242
San Diego, CA 92101

Todd Lyons, Acting Director of ICE
500 12th St. SW
Washington, DC 20536


Markwayne Mullin, Secretary of Homeland Security
Secretary of Homeland Security
Washington, DC 20528

Todd Blanche, Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Office of General Counsel
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE
Washington, DC 20528-0485

U.S. Attorney's Office southern District of California
Federal Office Building
880 Front Street, Room 6293
San Diego, CA 92101-8807

Dated: 05/16/2026



Carlos A. Garcia, Esq.