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

11 Case No. '26CV3113 JLS SBC

12 Alejandro Olmos Garfias,

13 Petitioner,

14 vs.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

15 Christopher LaRose, Gregory  
16 Archambeault, Todd Lyons,  
17 Markwayne Mullin, and Todd  
18 Blanche,

19 Respondents.

20 Petitioner Alejandro Olmos Garfias petitions this Court for a writ of habeas  
21 corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining him unlawfully  
22 and states as follows:

23 **INTRODUCTION**

24 Petitioner Alejandro Olmos Garfias, is a 54-year-old citizen and national of Mexico.  
25 He has had continuous presence in San Diego County since 2003.

26 1. Petitioner was arrested by Immigration Customs and Enforcement ("ICE") in  
27 2019 and released on his own recognizance because he was not a flight risk or a danger  
28 to the community.

1 2. On January 28, 2026 Petitioner was arrested again by ICE officers and has been  
2 detained at the Otay Mesa Detention Center ever since.

3 3. Petitioner's continued detention under Immigration and Nationality Act ("INA")  
4 § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), is unlawful because he is not an applicant  
5 for admission or seeking admission.

6 4. The discretionary detention provision of INA § 236 (a), 8 U.S.C. § 1226(a)  
7 should apply, as they did in 2019. The government has not shown that new facts as to  
8 Petitioner's flight risk or a danger to the community that require detention.

9 5. Petitioner Olmos seeks a writ of habeas corpus under 28 U.S.C. § 2241 directing  
10 his immediate release.

### 11 CUSTODY

12 6. Petitioner Alejandro Olmos Garfias is detained in the legal and physical custody  
13 by Respondents at the Otay Mesa Detention Center in San Diego County California,  
14 where he is under the direct control of the Respondents and their agents.

### 15 JURISDICTION

16 7. This action arises under the Constitution of the United States and the  
17 Immigration and Nationality Act (INA) 8 U.S.C. § 1101 et. seq, 8 U.S.C..

18 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas  
19 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution  
20 (Suspension Clause).

21 9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241  
22 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28  
23 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. 1252(e)(2).

### 24 VENUE

25 10. Venue is proper in this district under 28 U.S.C. § 1391 and 28 U.S.C. § 2242  
26 because at least one Respondent is in this district, Petitioner is detained in this District,  
27 Petitioner's immediate physical custody is located in the District, and a substantial part  
28 of the events giving rise to the claims in this action have taken place in this district.

1  
2 **PARTIES**

3 11. Petitioner Alejandro Olmos Garfias is a 54-year-old national and citizen of  
4 Mexico. He is a resident of Vista, California and is present within the state of California  
5 at the time of the filing of this Petition.

6 12. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention  
7 Center. Respondent LaRose is responsible for the operation of the Detention Center  
8 where Mr. Olmos is detained. As such, Respondent LaRose has immediate physical  
9 custody of the petitioner. He is being sued in their official capacity.

10 13. Respondent Gregory J. Archambeault is the San Diego Field Office Director  
11 (“FOD”) for ICE Enforcement and Removal Operations. Respondent Archambeault is  
12 responsible for the oversight of ICE operations at the Otay Mesa Detention Center.  
13 Respondent Archambeault is being sued in their official capacity.

14 14. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is  
15 responsible for the administration of ICE and the implementation and enforcement of  
16 the immigration laws, including immigrant detention. As such, Respondent Lyons is a  
17 legal custodian of Mr. Olmos and is being sued in their official capacity.

18 15. Respondent Markwayne Mullin is the Secretary of the Department of Homeland  
19 Security (“DHS”). As Secretary of DHS, Secretary Mullin is responsible for the  
20 general administration and enforcement of the immigration laws of the United States.  
21 Respondent Secretary Mullin is being sued in their official capacity.

22 16. Respondent Todd Blanche is the Acting Attorney General of the United States  
23 and the most senior official in the U.S. Department of Justice (DOJ) and is named in  
24 their official capacity. He has the authority to interpret the immigration laws and  
25 adjudicate removal cases. The Attorney General delegates their responsibility to the  
26 Executive Office for Immigration Review (EOIR), which administers the immigration  
27 courts and the Board of Immigration Appeals (BIA).

28 **EXHAUSTION OF REMEDIES**

17. With regard to habeas claims, exhaustion of administrative remedies is

1 prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).


2 A court may waive the prudential exhaustion requirement if “administrative remedies  
3 are inadequate or not efficacious, pursuit of administrative remedies would be a futile  
4 gesture, irreparable injury will result, or the administrative proceedings would be  
5 void.” *Id.* (quoting *Liang v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Petitioner  
6 asserts that exhaustion should be waived because administrative remedies are (1) futile  
7 and (2) his continued detention results in irreparable harm.

8 18. No statutory exhaustion requirements apply to Petitioner’s claim of unlawful  
9 custody in violation of his due process rights, and there are no administrative remedies  
10 that he needs to exhaust. *See American-Arab Anti-Discrimination Comm. v. Reno*, 70  
11 F.3d 1045, 1058 (9th Cir. 1995 (Finding exhaustion to be a “futile exercise because the  
12 agency does not have jurisdiction to review constitutional claims”)); *In re Indefinite*  
13 *Det. Cases*, 83 F.Supp. 2d 1098,1099 (C.D.Cal 2000)(same).

14 19. Petitioner has been detained since January 28, 2026, and although he was  
15 afforded a bond hearing, the immigration judge did not have jurisdiction to decide the  
16 case.

17 20. Consequently, Petitioner is unable to request bond, and any further pursuit of  
18 administrative remedies would be futile. Petitioner has therefore exhausted his  
19 administrative remedies to the extent required by law, and their only remedy lies with  
20 this Court.

## 21 STATEMENT OF FACTS

22 21. Petitioner is a 54-year-old national and citizen of Mexico. He was born in  
23 Michoacan, Mexico in .

24 22. Petitioner entered the United States without inspection on or about May 1991,  
25 through the desert outside of San Ysidro, California, to work and build a life in  
26 America.

27 23. Petitioner worked in landscaping to support his family, including four U.S.  
28 Citizen children.

1 24. Petitioner had been living at liberty in San Diego County since his most recent  
2 entry into the United States in March 2003, until January 2019.

3 25. Petitioner was arrested by ICE on January 29, 2019. See I-213 and I-831,  
4 attached as Exhibit A, p. 1-6.

5 26. The Deportation Officer issued Petitioner a G-56, allowing him to report to ICE  
6 on January 31, 2019, because he did not have a criminal history and needed his diabetes  
7 medication. See Exhibit A, p.7.

8 27. A DHS Form I-286, dated January 28, 2019, shows that the petitioner was  
9 detained pursuant to section 236 of the Immigration and Nationality Act. See Exhibit  
10 A, p.8.

11 28. An ICE Form I-220A shows that petitioner was released on his own  
12 recognizance on January 30, 2019. See Exhibit A, p. 9-12.

13 29. On January 31, 2019, petitioner was served a Notice to Appear and placed in  
14 removal proceedings. Petitioner was not detained while the case was pending. He was  
15 released on an ICE Form I-220 (a) Order of Release on Recognizance on January 30,  
16 2019. See Exhibit A, p. 13

17 30. The 2019 removal proceedings were terminated in March 2023 by order of an  
18 Immigration Judge. See Exhibit A, p. 14-15

19 31. Petitioner was re-arrested by ICE on January 28, 2026, and placed in removal  
20 proceedings.

21 32. Petitioner remains detained at Otay Mesa Detention Center.

22 33. DHS considers him an applicant for admission, subject to mandatory detention  
23 under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A).

24 34. For decades, detainees such as the petitioner, who were already present in the  
25 United States and eligible for removal, were eligible for a bond hearing under INA §  
26 236 (a), 8 U.S.C. § 1226(a).

27 35. Petitioner is not a flight risk. He has strong ties to the community. He has lived  
28 in Vista for over 25 years. He has 4 US Citizen children. His youngest son is only 14

1 and in his freshman year of high school.

2 36. Petitioner is not a danger to the community. He was arrested for DUI in 2000  
3 but was not charged or convicted. He has only 2 traffic tickets, in 2015 and 2016.

4 37. Conditions have not changed since he was released by ICE in 2019. The  
5 government offered an updated FBI report in response to Petitioner's motion for a bond  
6 hearing in March 2026. The FBI report only shows three contacts with law  
7 enforcement. The DUI arrest in 2000, the 2019 ICE arrest, and the ICE arrest on  
8 January 28, 2026 that initiated the current removal proceedings. See Exhibit A. p. 17-  
9 20.

10 38. Even if a bond hearing was available to Petitioner, “[j]udges are finding that the  
11 [bond] hearings they’re ordering — conducted by immigration judges who work for  
12 the Trump administration — have been fundamentally flawed or even pre-cooked,  
13 designed to result in findings of “danger to the community” or “flight risk” without a  
14 fair consideration of the evidence.” Cheney, K. (2026) Judges keep ordering  
15 immigration hearings — but say the results are often a sham.  
16 [https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-](https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660)  
17 00815660.

18 39. The conditions at Otay Mesa Detention Center are poor. Petitioners and other  
19 detainees have noted substandard quality of food, including not having any fresh fruit  
20 or vegetables during the duration of their detention.

21 40. Petitioner is not getting enough food. He is diabetic but Otay Mesa does not offer  
22 meals for diabetics. He cannot eat the bread or starch served in his meals.

23 41. Petitioner is not getting adequate medical care. He had an infected big toe that  
24 was swollen and needed antibiotics but they only gave him an antibiotic ointment.

25 42. Petitioner now seek habeas relief because his detention under INA §  
26 235(b)(2)(A) is unlawful, thus triggering the need for additional process.

27 **LEGAL FRAMEWORK FOR RELIEF SOUGHT**

28 43. Immigration detention is a form of civil confinement that “constitutes a

1 significant deprivation of liberty that requires due process protection.” *Addington v.*  
2 *Texas*, 441 U.S. 418, 423 (1979).

3 44. Immigration detention should not be used as a punishment and should only be  
4 used when, under an individualized determination, a noncitizen is a flight risk because  
5 they are unlikely to appear for immigration court or a danger to the community.  
6 *Zadvydass v. Davis*, 533 U.S. 678, 690 (2001).

7 45. Noncitizens in immigration proceedings are entitled to Due Process under the  
8 Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

9 46. Title 8 U.S.C. § 1226(a) "sets out the 'default rule' for [detention of] noncitizens  
10 already present in the country." *Lepe v. Andrews*, 801 F. Supp. 3d 104, No. 1:25-cv-  
11 01163-KES-SKO (HC), 2025 U.S. Dist. LEXIS 187233, 2025 WL 2716910, at \*3  
12 (E.D. Cal. Sept. 23, 2025) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 289, 138 S.  
13 Ct. 830, 200 L. Ed. 2d 122 (2018)).

14 47. Removal proceedings described in 8 U.S.C. § 1226(a) establish various  
15 procedures through which individuals may be detained pending a decision on whether  
16 or not the noncitizen is to be removed. 8 U.S.C.

17 48. Under § 1226(a), an individual may be released if he does not present a danger  
18 to persons or property and is not a flight risk. *Zadvydass v. Davis*, 533 U.S. 678, 690  
19 (2001); *Matter of Guera*, 24 I&N Dec. 37 (BIA 2006).

20 49. On July 8, 2025, DHS issued a policy that reclassified noncitizen residents of  
21 the United States who entered without inspection, like Petitioner, as subject to  
22 mandatory detention under 8 U.S.C. § 1225(b)(2)(A), a statute that until then only  
23 applied to those “seeking admission” at the border.

24 50. Individuals detained under 8 U.S.C. § 1225, are subject to mandatory detention.  
25 They do not have a statutory or regulatory right to a bond hearing before an  
26 immigration judge available under 8 U.S.C. § 1226(a).

27 51. The BIA affirmed the application of 8 U.S.C. § 1225(b)(2)(A) to noncitizens  
28 who had been living within the United States for years in *the Matter of Yajure Hurtado*,

1 29 I&N Dec. 216 (BIA 2025). The BIA decision went even further by stripping  
2 immigration judges of jurisdiction to hear bond requests from individuals detained  
3 under 8 U.S.C. § 1225(b)(2)(A).

4 52. Although Petitioner has been in the United States continuously since 2003, the  
5 BIA’s decision in the matter of *Yajure Hurtado* deems him an applicant for admission  
6 subject to mandatory detention under 8 U.S.C. § 1225.

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

13 54. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S.  
14 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice require,” 28  
15 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and  
16 noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). Moreover,  
17 “when the judicial power to issue habeas corpus properly is invoked the judicial officer  
18 must have adequate authority to make a determination in light of the relevant law and  
19 facts and to formulate and issue appropriate orders for relief, including, if necessary,  
20 an order directing the prisoner’s release.” *Id.* at 787.

21 **CAUSES OF ACTION**

22 **COUNT ONE**

23 **Violation of Fifth Amendment Right to Due Process**  
24 **Substantive Due Process**

25 55. Petitioner incorporates the allegations in the paragraphs above as though fully  
26 set out herein.

27 56. The Due Process Clause of the Fifth Amendment to the U.S. Constitution  
28 prohibits the federal government from depriving any person of “life, liberty, or  
property, without due process of law.” U.S. Const. Amend. V. Due process protects

1 “all ‘persons’ within the United States, including [noncitizens] whether their presence  
2 here is lawful, unlawful, temporary, or permanent.” *Zadvydas* at 693; accord *Flores*,  
3 507 U.S. at 306.

4 57. Freedom from bodily restraint is at the core of the liberty protected by the Due  
5 Process Clause. This vital liberty interest is at stake when an individual is subject to  
6 detention by the federal government.

7 58. Under the civil-detention framework set out in *Zadvydas*, and its progeny, the  
8 Government may deprive a non-citizen of physical liberty only when the confinement  
9 serves a legitimate purpose—such as ensuring appearance or protecting the  
10 community—and is reasonably related to, and not excessive in relation to, that purpose.

11 59. Mr. Olmos’ continued detention, absent any showing of flight risk or danger, is  
12 excessive in relation to the government’s interest and bears no reasonable, non-punitive  
13 relationship to any legitimate governmental aim.

14 60. The lack of meaningful review or opportunity for release renders his detention  
15 unconstitutionally arbitrary.

16 61. Even people subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A),  
17 which is read to preclude release on bond, are still eligible for release by parole under  
18 8 U.S.C. § 1182(d)(5). Any aliens who are applicants for admission are eligible for  
19 parole under the statute. 8 U.S.C. § 1182(d)(5)(A).

20 62. Absent intervention by this Court, Petitioner has no means of securing release  
21 pending the adjudication of his 42B application. *See Jennings v. Rodriguez*, 583 U.S.  
22 281, 297–303 (2018); *see also id.* at 302 (holding that § 235(b)’s detention provisions  
23 apply “throughout the completion of applicable proceedings and not just until the  
24 moment those proceedings begin”).

25  
26 **COUNT TWO**  
27 **Violation of Fifth Amendment Right to Due Process**  
28 **Procedural Due Process**

63. Petitioners incorporate the allegations in the paragraphs above as though fully

1 set forth here.

2 64. "Courts analyze procedural due process claims in two steps: [T]he first asks  
3 whether there exists a protected liberty interest under the Due Process Clause, and the  
4 second examines the procedures necessary to ensure any deprivation of that protected  
5 liberty interest accords with the Constitution." *Garcia v. Andrews*, No. 2:25-cv-01884-  
6 TLN-SCR, 2025 U.S. Dist. LEXIS 133521, 2025 WL 1927596, at \*2 (E.D. Cal. July  
7 14, 2025) (citing *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 460, 109 S. Ct. 1904,  
8 104 L. Ed. 2d 506 (1989)).

9 65. Other Federal Courts in California have noted that "[w]here the release decision  
10 was made by a DHS officer, not an immigration judge, the Government's practice has  
11 been to require a showing of changed circumstances before re-arrest." *Salcedo Aceros*  
12 *v. Kaiser*, No. 25-cv-06924-EMC, 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503,  
13 at \*1 (N.D. Cal. Sept. 12, 2025) (citing *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197  
14 (N.D. Cal. 2017)).

15 66. A noncitizen released from custody pending removal proceedings has a  
16 protected liberty interest in remaining out of custody even where an immigration  
17 official "elected to release" a petitioner on their own recognizance. *Salcedo Aceros*,  
18 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503, at \*6-7; *see also Polo v. Chestnut*,  
19 No. 1:25-cv-01342-JLT-HBK, 2025 U.S. Dist. LEXIS 205279, 2025 WL 2959346  
20 (E.D. Cal. Oct. 17, 2025) (collecting cases holding that an individual released from  
21 immigration detention has a protected liberty interest in continued release).

22 67. In January 2019, Petitioner was released upon the initial immigration officer's  
23 determination that he posed neither a danger to the community nor a flight risk. He  
24 remained free for seven years until he was re-arrested in January 2026.

25 68. Petitioner has a liberty interest in continued release protected by the due process  
26 clause of U.S. Constitution. He has a strong interest in his continued release, as he can  
27 continue to provide for his family and pursue his immigration case.

28 69. The Respondents have almost no interest in re-detaining Petitioner because he

1 was released in 2019 and there is no evidence that he is a flight risk or a danger or the  
2 community.

3 70. By detaining Mr. Olmos and for over three months without any individualized  
4 determination of flight risk or danger to the community, Respondents have violated his  
5 procedural due process rights.

6 **COUNT THREE**

7 **Petitioner's Detention Violates 8 U.S.C § 1226(a)**

8 71. Petitioner incorporates the allegations in the paragraphs above as though fully  
9 set forth here.

10 72. "It is well settled that the starting point for interpreting a statute is the language  
11 of the statute itself" *Olympic Forest Coal. v. Coast Seafoods Co.*, 884 F.3d 901, 905  
12 (9th Cir. 2018) (quoting *Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Found., Inc.*,  
13 484 U.S. 49, 56, 108 S. Ct. 376, 98 L. Ed. 2d 306 (1987)).

14 73. The phrase "seeking admission" limits 8 U.S.C. § 1225(b)(2)(A)'s reach to  
15 noncitizens who are actively trying to gain "lawful entry . . . into the United States  
16 after inspection and authorization by an immigration officer." *See* 8 U.S.C. §  
17 1101(a)(13)(A) (defining the terms "admission" and "admitted").

18 74. "Seeking admission" is a limitation on the broad category of "applicants for  
19 admission." Petitioner was already present in the United States when detained,  
20 therefore he was not "seeking admission," and § 1225(b) does not apply.

21 75. Petitioner's continued detention violates 8 U.S.C. § 1226(a). He was detained  
22 nearly seven years after his initial encounter and release by ICE. He attended all  
23 scheduled hearings in the prior case. Nothing in the record suggests that he was  
24 actively seeking admission at the time of his arrest. Petitioner was previously  
25 arrested, detained, and released (by an immigration officer, not an immigration judge)  
26 pursuant to § 1226(a)(2)(A) on his own recognizance, a form of relief explicitly  
27 unavailable under § 1225. *See* 8 U.S.C. § 1182(d)(5)(A); *see also* (*Perez v.*  
28 *Albarran* (E.D.Cal. Nov. 14, 2025, No. 1:25-cv-01540) 2025 LX 519453.), (noting  
that release on recognizance "does not indicate that she was examined or detained

1 under section 1225 but instead explicitly premises her release on section 1226”).

2 **COUNT FOUR**

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

5 76. Petitioner incorporates the allegations in the paragraphs above as though fully  
6 set forth here.

7 77. Under the Administrative Procedure Act ("APA"), a court shall “hold unlawful  
8 and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

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

15 79. To survive an APA challenge, the agency must articulate “a satisfactory  
16 explanation for its action,” “including a rational connection between the facts found  
17 and the choice made.” *Dept. of Com. v. New York*, 139 S.Ct. 2551, 2569  
18 (2019)(citation omitted).

19 80. By preventing Immigration Judges from adjudicating bond requests, without  
20 any consideration of his individualized facts and circumstances, Respondents have  
21 violated the APA.

22 81. By detaining Petitioner categorically, Respondents have further abused their  
23 discretion because no evidence has been presented demonstrating that Petitioner  
24 poses a danger to the community or constitutes a flight risk.

25 **COUNT FIVE**

26 **Violation of the Administrative Procedure Act—5 U.S.C. § 706(2)(A)**  
27 **Not in Accordance with Law and in Excess of Statutory Authority**  
28 **Violation of 8 U.S.C. § 1226(b), 8 CFR § 1236.1(c)(9)**

82. Petitioner incorporates the allegations in the paragraphs above as though fully

1 set forth here.

2 83. Under the APA, a court “shall [...] hold unlawful [...] agency action” that is “not  
3 in accordance with law;” “contrary to constitutional right;” “in excess of statutory  
4 jurisdiction, authority, or limitations;” or “without observance of procedure required  
5 by law.” 5 U.S.C. § 706(2)(A-D).

6 84. It is a well-established administrative principle that “agency action taken without  
7 lawful authority is at least voidable if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442  
8 F.Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v NLRB*, 796 F.3d 67, 79 (D.C.  
9 Cir. 2015); *see also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 f.3d 550, 555 (9th  
10 Cir. 2016)(invalidating agency action because it was taken by an unauthorized official).

11 85. Because Petitioner has been categorically prevented from requesting a bond  
12 hearing, Respondent’s detention of Mr. Olmos is not in accordance with law and in  
13 excess of statutory authority.

14 86. Respondent’s continued detention of Petitioner serves no lawful purpose,  
15 because as the length of detention grows, the likelihood that civil confinement is  
16 serving a lawful purpose must necessarily decrease. *See Zadvydas*, at 701.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, petitioner prays that this Court grant the following relief:

- 19 1) Assume jurisdiction over this matter;
- 20 2) Order respondents to show cause why the writ should not be granted as to  
21 Petitioner within three days, and set a hearing on this Petition within five days of the  
22 return, as required by 28 U.S.C. § 2243;
- 23 3) Enjoin Respondents from transferring Petitioner out of the Jurisdiction during  
24 the pendency of the habeas petition;
- 25 4) Issue a writ of habeas corpus requiring Respondents release Petitioner under the  
26 same conditions as his initial release;
- 27 5) Order Respondents to return all of Petitioner’s belongings, including his  
28 identification documents;

- 1 6) Declare that Petitioner's detention violates the Due Process Clause of the Fifth
- 2 Amendment, the INA and the APA;
- 3 7) Set aside Respondents unlawful practice pursuant to 5 U.S.C. § 706(2) as
- 4 contrary to law, contrary to constitutional right, and in excess of statutory authority;
- 5 and
- 6 8) Grant such further relief as this Court deems just and proper.

7

8 DATED: May 15, 2026 /s/ Deva F. Robbins

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14 *Pro Bono Counsel for Petitioner*

15

16 **VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF**

17 **PURSUANT TO 28 U.S.C § 2224**

18 I, Deva F. Robbins, do depose and state,

19 I represent Petitioner, Alejandro Olmos Garfias, in these habeas corpus proceedings.

20 Petitioner is currently being held in detention at the Otay Mesa Detention Center and

21 is not available to appear in my office to sign this verification. I have reviewed the

22 record of his detention and discussed this matter with him. I verify that the

23 information contained in the foregoing Petition is true and correct to the best of my

24 knowledge and belief.

25

26 Dated: May 15, 2026 Respectfully submitted,

27 /s/ Deva F. Robbins

28 *Pro Bono Counsel for Petitioner*