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5 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
6 **SAN DIEGO**

7 Leonet Ricardo GAMEZ SABOGAL
Petitioner,

8 v.

Todd Blanche, Acting Attorney
9 General of the United States,
Department of Justice;

10 Markwayne Mullin, Secretary of
11 Homeland Security;

12 David J. Venturella, Senior Official
Performing the Duties of the Director
13 of U.S. Immigration and Customs
Enforcement;

14 Patrick Divver, Field Office Director of
15 the San Diego Immigration and
Customs Enforcement Office;

16 Jorge Velarde, Assistant Field Office
17 Director of the Immigration and
Customs Enforcement, Otay Mesa
18 Detention Center;

19 Christopher J. LaRose; Senior Warden,
Otay Mesa Detention Center;

20 Respondents.
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Case No. '26CV3418 JES BJW

Agency No. 

**PETITION FOR WRIT OF
HABEAS CORPUS BY A
PERSON IN FEDERAL
CUSTODY UNDER
28 U.S.C. § 2241 AND ORDER TO
SHOW CAUSE**

1 **INTRODUCTION**

2 1. Petitioner, Leonet Ricardo Gamez Sabogal  (hereinafter
3 “Petitioner” or “Mr. Gamez”), a 37-year-old Venezuelan national, has been
4 detained in immigration custody, in violation of his due process rights, since
5 approximately April 21, 2026, and at the Otay Mesa Detention Center since May
6 5, 2026. Ex. A, Notice to Appear (“NTA”).

7 2. Mr. Gamez’s sole entry to the United States was on or about December 15, 2022,
8 at unknown location, without inspection, admission, or parole. *Id.* He has
9 remained living in the United States since without departure. Neither his minimal
10 criminal history nor any aggravating circumstance should prevent his eligibility
11 for an immigration judge to conduct a bond hearing, according to the Immigration
12 and Nationality Act (“INA”).

13 3. Therefore, Petitioner files this petition. Petitioner asks this Court to find that his
14 continued detention is unlawful without an opportunity for a bond hearing given
15 Petitioner is entitled to consideration for release on bond under 8 U.S.C.
16 § 1226(a); that he may not be transferred during the pendency of this petition; and
17 that this court make an order to show cause. Petitioner requests Respondents be
18 required to provide a response within three days or alternatively timing pursuant to
19 Chief Judge Order No. 144.

20 **JURISDICTION**

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1 4. This action arises under the Constitution of the United States and the Immigration
2 and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

3 5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
4 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United
5 States Constitution (Suspension Clause).

6 6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et*
7 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs
8 Act, 28 U.S.C. § 1651.

9 7. The provisions in 8 U.S.C. §§ 1252(g) and 1252(b)(9) do not strip this Court of
10 jurisdiction. Petitioner is not contesting the commencement or adjudication of
11 removal proceedings against him, nor is he raising an issue with respect to the
12 execution of removal. Petitioner does challenge his classification under Section
13 1225(b)(2) instead of Section 1226(a) and the Board of Immigration Appeals'
14 ("BIA") decision that immigration judges lack authority to provide a bond hearing
15 on that basis. The petition is independent of the removal proceedings and all
16 questions related to the commencement of removal proceedings or any part of the
17 removal process. "[C]laims that are independent of or collateral to the removal
18 process do not fall within the scope of § 1252(b)(9)." *J.E.F.M. v. Lynch*, 837 F.3d
19 1026, 1032 (9th Cir. 2016). Additionally, Section 1252(g) "does not prohibit
20 challenges to unlawful practices merely because they are in some fashion
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1 connected to removal orders.” *Ibarra-Perez v. United States*, 154 F.4th 989, 997
2 (9th Cir. 2025). Thus, this Court is not stripped of jurisdiction by Sections 1252(g)
3 and 1252(b)(9).

4 VENUE

5 8. Venue is proper because Petitioner is detained and currently resides at the Otay
6 Mesa Detention Center in the County of San Diego, which is within the
7 jurisdiction of this District and no real property is involved in this action. 28
8 U.S.C. § 1391(e).

9 REQUIREMENTS OF 28 U.S.C. § 2243

10 9. The Court must grant the petition for writ of habeas corpus or issue an order to
11 show cause (OSC) to the respondents “forthwith,” unless the petitioner is not
12 entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court
13 must require respondents to file a return “within *three days* unless for good cause
14 additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

15 10. Courts have long recognized the significance of the habeas statute in protecting
16 individuals from unlawful detention. The Great Writ has been referred to as
17 “perhaps the most important writ known to the constitutional law of England,
18 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
19 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

20 PARTIES

1 ***Petitioner***

2 11. Petitioner, Mr. Gamez, is a Venezuelan national who is in custody at the Otay
3 Mesa Detention Center located at 7488 Calzada De La Fuente, San Diego, CA
4 92154. He is in the custody, and under the direct control, of Respondents and
5 their agents.

6 ***Respondents***

7 12. Respondent Todd Blanche, Acting U.S. Attorney General, is sued in their official
8 capacity as the Attorney General of the United States and the senior official of the
9 U.S. Department of Justice (“DOJ”). In that capacity, they have the authority to
10 adjudicate removal cases and to oversee the Executive Office for Immigration
11 Review (“EOIR”), which administers the immigration courts and the Board of
12 Immigration Appeals. Respondent U.S. Attorney General is a legal custodian of
13 Petitioner.

14 13. Respondent Markwayne Mullin Secretary of U.S. Department of Homeland
15 Security (“DHS”) is sued in their official capacity as the Secretary of the DHS. In
16 this capacity, Respondent Secretary is responsible for the implementation and
17 enforcement of the Immigration and Nationality Act, and oversees U.S.
18 Immigration and Customs Enforcement, the component agency responsible for
19 Petitioner’s detention and custody. Respondent Secretary is a legal custodian of
20 Petitioner.

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1 14. Respondent David J. Venturellas is sued in his official capacity as the Senior
2 Official Performing the Duties of the Director ICE. Respondent Venturellas is the
3 legal custodian of Petitioner.

4 15. Respondent Patrick Divver is sued in his official capacity as the Field Office
5 Director of the San Diego ICE Office. Respondent Divver is a legal custodian of
6 Petitioner and has authority to release him.

7 16. Respondent Jorge Velarde is sued in his official capacity as Assistant Field Office
8 Director of the ICE at the Otay Mesa Detention Center. Respondent Velarde is a
9 legal custodian of Petitioner and has direct authority to release him.

10 17. Respondent Christopher J. LaRose is sued in his official capacity as the Senior
11 Warden, Otay Mesa Detention Center. Respondent LaRose is the direct physical
12 custodian of Petitioner and has direct authority to release him.

13 **STATEMENT OF FACTS**

14 18. Petitioner, Mr. Gamez, a 37-year-old Venezuelan national, has lived in the United
15 States continuously since his single entry without inspection or admission on
16 approximately December 15, 2022. Ex. A. He was apprehended following his
17 entry and then paroled into the United States by immigration officials. He then
18 filed Form I-589, *Application for Asylum and for Withholding of Removal*, with
19 United States Citizenship and Immigration Services (“USCIS”) and has been
20 gainfully employed since receiving his employment authorization document.

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1 19. On April 19, 2026, while Mr. Gamez was driving in his car, he was pulled over
2 for a traffic violation by local law enforcement in Miami, Florida. Police searched
3 his car and found a THC vape pen and given he did not have a medical license,
4 which is required in Florida in order to possess a THC vape pen, he was arrested.
5 He paid his bail on April 21, 2026, but instead of being released he was
6 transferred to Immigration and Customs Enforcement (“ICE”) custody.

7 20. Mr. Gamez was transferred to multiple different detention facilities in Florida
8 before ultimately being transferred to the Otay Mesa Detention Center where he
9 remains today.

10 21. After Mr. Gamez was transferred to the custody of ICE, the DHS placed him in
11 removal proceedings pursuant to 8 U.S.C. § 1229a by serving him a NTA dated
12 May 5, 2026. DHS has charged Petitioner as being inadmissible under 8 U.S.C. §
13 1182(a)(6)(A)(i), as someone who entered the United States without inspection
14 and is present without admission. Ex. A.

15 22. Petitioner is detained pursuant to 8 U.S.C. 1226(a), which governs the detention
16 of noncitizens “inside the United States” and “present in the country.” *Jennings v.*
17 *Rodriguez*, 583 U.S. 281, 288–89 (2018).

18 23. Section 1225(b)(2), in contrast, authorizes the detention of applicants for
19 admission who are “seeking admission” but “not clearly and beyond a doubt
20 entitled to be admitted.” Unlike section 1226(a), section 1225(b)(2) provides that

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1 individuals who fall under its authority “shall be detained” during the pendency
2 of proceedings, though they too remain eligible for release through the parole
3 process. *Jennings*, 583 U.S. at 300 (holding that release on “parole” under 8
4 U.S.C. 1182(d)(5)(A) remains available even for people held under otherwise-
5 mandatory detention pursuant to section 1225(b)). Courts in this district have
6 repeatedly reached the same conclusion. *See, e.g., Arias Torres v. Bondi*, No. 25-
7 cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez*
8 *Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct.
9 302025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal.
10 Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-*
11 *Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct.
12 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL
13 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-
14 TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-
15 3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*,
16 No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*,
17 No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova*
18 *v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19,
19 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931
20 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF

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1 No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB,
2 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

3 24. Petitioner was unquestionably detained in the interior of the country prior to the
4 issuance of the NTA. Ex. A.

5 25. Therefore, Mr. Gamez requests this court issue a habeas order requiring a lawful
6 bond hearing before a fair, neutral, and open-minded arbiter be held for him so
7 that his unlawful detention does not continue.

8 **CLAIM FOR RELIEF**
9 **Violation of the INA**

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

12 27. Mr. Gamez's eligibility for bond under 8 U.S.C. § 1226(a) remains. A multitude
13 of cases have concluded that 8 U.S.C. § 1226(a) is the appropriate standard for
14 bond in Petitioner's circumstance and that applying Section 1225 "(1) disregards
15 the plain meaning of section 1225(b)(2)(A); (2) disregards the relationship
16 between sections 1225 and 1226; (3) would render a recent amendment to section
17 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory
18 interpretation and practice." *Lepe v. Andrews*, 801 F. Supp. 3d 1104, 1112 (E.D.
19 Cal. 2025) (citing cases).

1 28. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is
2 subject to mandatory detention under § 1225(b)(2), Respondents violate
3 Petitioner's statutory rights under the INA.

4 **PRAYER FOR RELIEF**

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

- 6 1) Assume jurisdiction over this matter;
- 7 2) Issue an order preventing Respondents from transferring Petitioner away from the
8 Otay Mesa Detention Center;
- 9 3) Issue an order to show cause and require a response within three days from
10 Respondents as to why this petition should not be granted, pursuant to 28 U.S.C. §
11 2243;
- 12 4) Issue a writ of habeas corpus requiring Respondents to release Petitioner unless
13 they provide a bond hearing under 8 U.S.C. § 1226(a) and that the bond hearing
14 must be before a fair, neutral, open-minded arbiter, and if the bond hearing is not
15 fair and neutral, Petitioner be released immediately;
- 16 5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
17 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
18 and
- 19 6) Grant any other and further relief that this Court deems just and proper.
- 20
- 21

Respectfully submitted,

Dated: June 4, 2026

/s/ Leah L. Chavarria
Leah L. Chavarria
Counsel for Petitioner

LIST OF EXHIBITS

EXHIBIT A: Notice to Appear

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

I represent Petitioner, Leonet Ricardo Gamez Sabogal, and submit this verification on his behalf. I hereby verify under penalty of perjury under the laws of the United States and the State of California 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 4th day of June, 2026.

/s/ Leah L. Chavarria
Leah L. Chavarria
Counsel for Petitioner