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6 UNITED STATES DISTRICT COURT
7 SOUTHERN DISTRICT OF CALIFORNIA

8 MENDEZ QUINTANA, REGINO

9 Petitioner,

10 v.

11 Patrick DIVVER, Field Office Director of
12 Enforcement and Removal Operations, San
Diego Field Office, Immigration and Customs
13 Enforcement; Markwayne MULLIN, Secretary,
U.S. Department of Homeland Security; U.S.
14 DEPARTMENT OF HOMELAND
SECURITY; Todd BLANCHE, U.S. Attorney
15 General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Christopher J.
16 LAROSE, Warden of Otay Mesa Detention
Facility,

17 Respondents.

Case No. '26CV3470 LL JLB

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Regino Mendez Quintana brings this petition for a writ of habeas corpus relief pursuant to 28 U.S.C. § 2241 because Respondents are unlawfully detaining him without access to a bond hearing.
2. Petitioner entered the United States without inspection in November 1986 and has resided in this country for nearly forty years. He was not apprehended at or near the time of entry.
3. On May 11, 2026, ICE arrested Petitioner and initiated removal proceedings.
4. When Petitioner requested a custody redetermination hearing, the Immigration Judge concluded that bond jurisdiction did not exist because Petitioner was allegedly subject to detention under 8 U.S.C. § 1225(b), relying on *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).
5. Petitioner challenges that determination and seeks an order directing Respondents to provide an individualized bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a).
6. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

7. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 2241.
8. Petitioner is in physical custody of Respondents. Petitioner is detained at the Otay Mesa Detention Center in San Diego, CA.

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

4 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,
5 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

6 VENUE

7 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500
8 (1973), venue lies in the United States District Court for the Southern District of
9 California, the judicial district in which Petitioner currently is detained.

10 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
11 Respondents are employees, officers, and agencies of the United States, and because a
12 substantial part of the events or omissions giving rise to the claims occurred in the
13 Southern District.

14 REQUIREMENTS OF 28 U.S.C. § 2243

15 13. Habeas corpus is “perhaps the most important writ known to the constitutional law . . .
16 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
17 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application
18 for the writ usurps the attention and displaces the calendar of the judge or justice who
19 entertains it and receives prompt action from him within the four corners of the
20 application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

21 PARTIES

22 14. Petitioner Regino Mendez Quintana is a citizen of Mexico who has been in immigration
23 detention since May 11, 2026. After Petitioner was arrested in Camp Pendleton ICE did
24

1 not set bond. On June 8, 2026, Petitioner was denied bond by an IJ at the Otay Mesa
2 Immigration Court because he was deemed an “applicant for admission.” Petitioner has
3 resided in the United States since November of 1986.

4 15. Respondent Patrick Divver is the Director of the San Diego Field Office of ICE’s
5 Enforcement and Removal Operations division. As such, Patrick Divver is Petitioner’s
6 immediate custodian and is responsible for Petitioner’s detention and removal. He is
7 named in his official capacity.

8 16. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security.
9 He is responsible for the implementation and enforcement of the Immigration and
10 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention.
11 Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official
12 capacity.

13 17. Respondent Department of Homeland Security (DHS) is the federal agency responsible
14 for implementing and enforcing the INA, including the detention and removal of
15 noncitizens.

16 18. Respondent Todd Blanche is the Attorney General of the United States. He is responsible
17 for the Department of Justice, of which the Executive Office for Immigration Review and
18 the immigration court system it operates is a component agency. He is sued in his official
19 capacity.

20 19. Respondent Executive Office for Immigration Review (EOIR) is the federal agency
21 responsible for implementing and enforcing the INA in removal proceedings, including
22 for custody redeterminations in bond hearings.

1 20. Respondent Christopher J. LaRose is employed by the CCA as Warden of the Otay Mesa
2 Detention Facility, where Petitioner is detained. He has immediate physical custody of
3 Petitioner. He is sued in his official capacity.

4 **FACTUAL ALLEGATIONS**

5 21. Petitioner is a native and citizen of Mexico.

6 22. At some time in November of 1986, Petitioner entered the United States without
7 inspection admission or parole.

8 23. Petitioner was not apprehended upon arrival.

9 24. Following entry, Petitioner continuously resided within the United States for
10 approximately four decades.

11 25. During that period Petitioner established substantial ties to the United States, including
12 family, employment, and community connections.

13 26. On December 23, 2019, Petitioner filed Form I-485 Application to Adjust Status under 8
14 USC 1225(i) and based on an approved I-130 Petition filed by his adult U.S. citizen child.

15 27. On May 11, 2026, ICE arrested Petitioner while arriving to work.

16 28. DHS issued a Notice to Appear charging Petitioner as removable under INA §
17 212(a)(6)(A)(i). Removal proceedings remain pending.

18 29. Petitioner requested a custody redetermination hearing.

19 30. The Immigration Judge concluded that bond jurisdiction was unavailable because
20 Petitioner allegedly remained subject to detention under 8 U.S.C. § 1225(b). The

21 Immigration Judge relied on *Matter of Yajure-Hurtado* 29 I&N Dec. 216 (BIA 2025).

22 31. The Immigration Judge did not conduct an individualized assessment of danger, flight
23 risk, or conditions of release.

32. Petitioner therefore remains detained without any meaningful opportunity to obtain release.

CLAIM FOR RELIEF
COUNT ONE- VIOLATION OF THE INA:
RESPONDENTS ARE DETAINING PETITIONER UNDER THE WRONG
STATUTORY AUTHORITY

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

34. Section 1226(a) governs arrest and detention pending a decision on removability.

35. Section 1225(b) applies to applicants for admission and certain arriving noncitizens.

36. For decades prior to the government's recent policy shift, individuals who entered without inspection and were arrested long after entry were generally treated as detained under § 1226(a).

37. Respondents contend Petitioner is detained pursuant to § 1225(b). However, Petitioner entered the United States in 1986. Petitioner was not apprehended upon arrival. Petitioner lived openly within the United States for approximately forty years before arrest. Respondents' interpretation effectively treats every person who entered without inspection as perpetually subject to mandatory detention regardless of how many years have elapsed since entry. Such an interpretation is inconsistent with the structure and text of the INA. Therefore, Petitioner is properly detained, if at all, under § 1226(a).

38. Because Petitioner is detained pursuant to § 1226(a), he is entitled to seek release through a custody redetermination hearing. Respondents' refusal to provide such a hearing violates federal law.

COUNT TWO- VIOLATION OF THE U.S. CONSTITUTION

**DETENTION WITHOUT ACCESS TO A BOND HEARING VIOLATES THE FIFTH
AMENDMENT**

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

40. Civil immigration detention must comport with due process under the Fifth Amendment of the U.S. Constitution.

41. Petitioner has been deprived of liberty without any individualized determination regarding danger or flight risk.

42. Respondents have denied Petitioner any meaningful opportunity to demonstrate eligibility for release.

43. The Constitution requires an individualized hearing before a neutral decisionmaker.

44. Continued detention without such a hearing violates the Due Process Clause.

COUNT III- VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (APA)

5 U.S.C. § 706

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

46. Respondents' policy and practice of categorically detaining individuals arrested in the interior under § 1225(b) is arbitrary, capricious, contrary to law, and in excess of statutory authority.

47. Respondents' actions therefore violate 5 U.S.C. Section 706, Administrative Procedure Act.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a);
- c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- f. Grant any other and further relief that this Court deems just and proper.

DATED this 9^h day of June, 2026.

/s/ Jennifer Rozdzielski

Attorney for Petitioner

VERIFICATION

I, Jennifer Rozdzielski, declare under penalty of perjury that the foregoing petition is true and correct to the best of my knowledge.

Executed on June 9, 2026 at Torrance, California.

/s/ Jennifer Rozdzielski

Jennifer Rozdzielski

Attorney for Petitioner