

CHRISTOPHER J. DESALVA (SBN 172209)
LAW OFFICE OF CHRISTOPHER J. DESALVA
45902 Oasis Street, Suite D
Indio, CA 92201
Telephone: (760) 447-0031
Email: desalvalaw@gmail.com

Attorney for Petitioner Orlin Alexander Perez^{ca}-Canan

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ORLIN ALEXANDER PEREZ-CANAN, <i>Petitioner,</i> v. JEREMY CASEY, Facility Administrator, Imperial Regional Detention Facility; FIELD OFFICE DIRECTOR, PATRICK DIVVER, U.S. Immigration and Customs Enforcement San Diego Field Office; DAVID VENTURELLA, Acting Director, U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; and TODD BLANCHE, Acting Attorney General of the United States, <i>Respondents.</i>	Case No.: <u>'26CV3509 BJC DEB</u> VERIFIED EMERGENCY PETITION FOR A WRIT OF HABEAS CORPUS, ORDER TO SHOW CAUSE WITHIN THREE DAYS, AND COMPLAINT FOR DECLARATORY RELIEF 28 U.S.C. § 2241 IMMEDIATE RELEASE REQUESTED
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INTRODUCTION

1. Petitioner Orlin Alexander Perez-Canan (, a twenty-four-year-old citizen of Guatemala, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. As of the date of this Petition, Mr. Perez-Canan has been detained by U.S. Immigration and Customs Enforcement (“ICE”) for 103 days at the Imperial Regional Detention Facility in Calexico, California, without any individualized determination by a neutral decisionmaker that his detention is justified.
2. Mr. Perez-Canan entered the United States on or about November 26, 2019, near Sasabe, Arizona, as a seventeen-year-old unaccompanied minor. He was processed in accordance with the William Wilberforce Trafficking Victims Protection Reauthorization Act (“TVPRA”), transferred to the custody of the Office of Refugee Resettlement (“ORR”), placed at the Southwest Key Casa Lighthouse shelter in Phoenix, Arizona, and lawfully released to a sponsor. He has no criminal history, no prior removal orders, and no pending criminal matters.
3. On November 28, 2019, the Department of Homeland Security (“DHS”) initiated removal proceedings against Mr. Perez-Canan, venued at the Santa Ana, California Immigration Court. Those proceedings concluded on June 10, 2022, when the Immigration Judge **terminated proceedings**. The records of the Executive Office for Immigration Review (“EOIR”) confirm: “IJ Decision Date: 06/10/2022. IJ Decision: The Immigration Judge terminated proceedings.”
4. From June 10, 2022, until February 26, 2026 — nearly four years — Mr. Perez-Canan was a person against whom no removal proceedings were pending. The termination order restored him to unrestrained liberty. Combined with the more than two years he had already

spent at liberty following his lawful release from ORR custody, Mr. Perez-Canan lived freely in the United States for more than six years.

5. On February 26, 2026, ICE re-detained Mr. Perez-Canan following an interior traffic stop near Sky Valley, in Riverside County, California. At the moment of his arrest, no removal proceedings were pending against him. Respondents gave him no written notice — before or at the time of his arrest — of any intention to initiate new removal proceedings or to revoke the liberty an Immigration Judge’s termination order had confirmed. He received no statement of individualized cause and no hearing, before or promptly after his re-detention, at which a neutral decisionmaker assessed whether his detention is justified. Only after taking him into custody did DHS commence new proceedings, now venued at the Imperial, California Immigration Court, where he pursues asylum, withholding of removal, and protection under the Convention Against Torture.
6. Mr. Perez-Canan was arrested in the interior of the United States and has no criminal history. To the extent any detention authority applies to him at all, it is 8 U.S.C. § 1226(a), under which detention is discretionary and requires an individualized assessment of flight risk and danger. But § 1226(a) authorizes arrest “on a warrant issued by the Attorney General” and detention “pending a decision on whether the alien is to be removed.” When ICE seized Mr. Perez-Canan, no such decision was pending: an Immigration Judge had terminated his proceedings nearly four years earlier. Respondents have never identified lawful authority for arresting a person with no pending proceedings, without a warrant-based individualized determination, and without notice — and they have provided no individualized custody determination since.

7. Mr. Perez-Canan seeks one remedy: his immediate release from custody. He expressly does not seek a remand to the Immigration Court for a bond hearing. Such a remand would be futile. In the experience of undersigned counsel, the Immigration Judges sitting at the Imperial Immigration Court uniformly deny requests for release on bond by similarly situated noncitizens, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and the Board of Immigration Appeals cannot be expected to adjudicate the lawfulness of its own precedent. See *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011). Exhaustion of administrative remedies is accordingly excused as futile. *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007).
8. This Petition presents three claims: that Mr. Perez-Canan's arrest and continued detention — effected while no removal proceedings were pending and maintained without any individualized custody determination — violate 8 U.S.C. § 1226(a) (Count One); that Respondents' reliance on *Matter of Yajure Hurtado* to detain him without such a determination is agency action contrary to law under the Administrative Procedure Act (Count Two); and that the revocation, without notice, cause, or any process, of the liberty conclusively restored to him by an Immigration Judge's termination order violates the Due Process Clause of the Fifth Amendment (Count Three).
9. Because each additional day of unlawful detention inflicts irreparable constitutional injury, Mr. Perez-Canan respectfully requests that this Court order Respondents to show cause within three days why the writ should not be granted, and set a hearing within five days of the return, as 28 U.S.C. § 2243 directs.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241(a) and (c)(3), which authorize the federal courts to grant writs of habeas corpus to persons held in custody in violation of the Constitution or laws of the United States. *See Hernandez v. Sessions*, 872 F.3d 976, 987 (9th Cir. 2017). The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. §§ 2201–2202 (declaratory relief), and Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).
11. No provision of the INA strips this Court of jurisdiction over this Petition. Mr. Perez-Canan does not challenge any final order of removal; he challenges the lawfulness of his present civil detention, a question that remains within the historic office of the writ. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018).
12. Venue is proper in this District pursuant to 28 U.S.C. § 2241(d) because Mr. Perez-Canan is physically detained at the Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, California 92231, within Imperial County and the Southern District of California, and his immediate custodian is located within this District.

REQUIREMENTS OF 28 U.S.C. § 2243

13. Section 2243 of Title 28 provides that a court entertaining a petition for a writ of habeas corpus “shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.”
14. The statute further directs that the writ or order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed,”

and that a hearing shall be set “not more than five days after the return of the writ, or fifteen days for good cause shown.”

15. Mr. Perez-Canan respectfully requests that the Court enforce these statutory timelines. He has now been detained for 103 days without any individualized custody determination, and the passage of time compounds the constitutional injury each day.

PARTIES

16. Petitioner Orlin Alexander Perez-Canan is a twenty-four-year-old citizen of Guatemala, . He entered the United States as an unaccompanied minor on November 26, 2019, and has resided in the United States since that date. He is currently detained at the Imperial Regional Detention Facility in Calexico, California.
17. Respondent Jeremy Casey is the Facility Administrator of the Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, California 92231. He is Mr. Perez-Canan's immediate custodian and is sued in his official capacity.
18. Respondent Patrick Divver, Field Office Director, U.S. Immigration and Customs Enforcement San Diego Field Office, is the official who exercises authority over ICE detention operations in San Diego and Imperial Counties, including the Imperial Regional Detention Facility.
19. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement. He is responsible for the administration of immigration detention nationwide and is sued in his official capacity.

20. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security, the agency charged with enforcement of the immigration laws, including the detention of noncitizens. He is sued in his official capacity.

21. Respondent Todd Blanche is the Acting Attorney General of the United States. The Attorney General oversees the Executive Office for Immigration Review and shares responsibility for the administration of the immigration laws. He is sued in his official capacity.

LEGAL FRAMEWORK

A. Mr. Perez-Canan's Detention Is Governed by 8 U.S.C. § 1226(a)

22. Section 1226(a) of Title 8 governs the arrest and detention of noncitizens, apprehended in the interior of the United States, pending a decision on whether they are to be removed. Detention under § 1226(a) is discretionary: the noncitizen “may” be detained, released on bond, or released on conditional parole.

23. By contrast, 8 U.S.C. § 1225(b) applies to applicants for admission apprehended at or near the border or ports of entry, and 8 U.S.C. § 1226(c) mandates detention only for noncitizens with qualifying criminal convictions. *See Jennings v. Rodriguez*, 583 U.S. 281, 293–94 (2018); *Demore v. Kim*, 538 U.S. 510 (2003).

24. Mr. Perez-Canan was arrested in the interior of the United States — in Riverside County, California, more than six years after his entry — and he has no criminal history. Neither § 1225(b) nor § 1226(c) applies to him. Critically, however, at the moment of his arrest he was not even within the ordinary reach of § 1226(a): an Immigration Judge had terminated his removal proceedings on June 10, 2022, and no new proceedings were pending. Section 1226(a) authorizes arrest “on a warrant issued by the Attorney General” and detention

“pending a decision on whether the alien is to be removed.” Respondents arrested a person as to whom no removal decision was pending, without written notice of any intention to commence new proceedings and have detained him ever since without any individualized determination.

B. Detention Under § 1226(a) Requires an Individualized Determination

25. Freedom 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) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).
26. An individual released from immigration custody has a liberty interest in remaining free from detention. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). That liberty interest extends to individuals released on their own recognizance to attend removal proceedings. *See Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *11 (E.D. Cal. Aug. 21, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D. Cal. Sept. 5, 2025). The interest is at its apex for a person like Mr. Perez-Canan, whose removal proceedings were not merely continued but **terminated** by an Immigration Judge — a judicial act that ended the government’s charging effort and conclusively confirmed his liberty.
27. Where the government detains a noncitizen under § 1226(a), due process requires a prompt, individualized determination — before a neutral decisionmaker — of whether the noncitizen presents a flight risk or a danger to the community, with the burden on the government. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Mathews v. Eldridge*, 424 U.S. 319 (1976).

C. Matter of Yajure Hurtado Is Entitled to No Deference

28. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals concluded that Immigration Judges lack authority to grant bond to broad categories of noncitizens notwithstanding the discretionary text of § 1226(a). That decision contradicts the plain text of the statute and the Supreme Court’s construction of the detention framework in *Jennings v. Rodriguez*, and it departs from decades of settled administrative practice without adequate explanation.

29. Following *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), this Court owes no deference to the Board’s interpretation of the INA and must exercise its independent judgment. Exercising that judgment, the Court should conclude that § 1226(a) means what it says: detention of noncitizens like Mr. Perez-Canan is discretionary and must rest on an individualized determination.

D. A Remand for a Bond Hearing Would Be Futile; Release Is the Only Adequate Remedy

30. Exhaustion of administrative remedies is excused where it would be futile or where the administrative process cannot provide the relief sought. *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). Both conditions are met here.

31. First, in the experience of undersigned counsel, requests for release on bond presented to the Immigration Judges sitting at the Imperial Immigration Court by noncitizens similarly situated to Mr. Perez-Canan are uniformly denied in reliance on *Matter of Yajure Hurtado*. A remand to that court for a bond hearing would be a hollow formality, not the meaningful, individualized process that the statute and the Due Process Clause require.

32. Second, Mr. Perez-Canan’s central contention — that *Matter of Yajure Hurtado* is contrary to the statute and the Constitution — is one the immigration courts and the Board are

institutionally incapable of resolving in his favor, because the Board cannot adjudicate the lawfulness of its own binding precedent. *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

33. Third, each day of unlawful detention is itself irreparable constitutional injury that no later administrative proceeding can remedy. Where the administrative process is incapable of supplying lawful process, the habeas court's power — and its duty — is to “dispose of the matter as law and justice require.” 28 U.S.C. § 2243. Here, law and justice require Mr. Perez-Canan's release, restoring the liberty he held for more than six years before it was summarily revoked.

STATEMENT OF FACTS

34. Mr. Perez-Canan was born  in Guatemala. He fled Guatemala as a minor because he feared serious harm there (Mr. Perez-Canan , and he continues to fear that he will be harmed or killed if he is returned.
35. On November 26, 2019, at the age of seventeen, Mr. Perez-Canan entered the United States near Sasabe, Arizona, unaccompanied by a parent or legal guardian. U.S. Border Patrol apprehended him shortly after entry and determined that he was an unaccompanied alien child within the meaning of 6 U.S.C. § 279(g)(2).
36. Consistent with the TVPRA, Mr. Perez-Canan was transferred to the custody of the Office of Refugee Resettlement and placed at the Southwest Key Casa Lighthouse shelter in Phoenix, Arizona. ORR subsequently released him to an approved sponsor.
37. On November 28, 2019, DHS issued a charging document initiating removal proceedings against Mr. Perez-Canan under section 240 of the INA, charging him with inadmissibility under INA § 212(a)(6)(A)(i) as a noncitizen present in the United States without admission

or parole. Those proceedings were venued at the Immigration Court located at 1241 E. Dyer Road, Suite 200, Santa Ana, California 92705.

38. On June 10, 2022, the Immigration Judge terminated Mr. Perez-Canan's removal proceedings. EOIR's automated case information system reflects, for the case associated with charging document date November 28, 2019: "IJ Decision Date: 06/10/2022. IJ Decision: The Immigration Judge terminated proceedings." The Record of Proceedings for that case is maintained in paper form only.
39. Upon termination, no removal proceedings of any kind were pending against Mr. Perez-Canan, and no order, condition, or supervision restrained his liberty. From June 10, 2022, until February 26, 2026, he lived at liberty in the United States. He did not abscond. He has never been convicted of any crime, has no pending criminal charges, and has no prior orders of removal or prior deportations.
40. On February 26, 2026, Mr. Perez-Canan was the subject of a traffic stop near Sky Valley, in Riverside County, California — deep in the interior of the United States. Following the stop, he was taken into ICE custody. At the moment of his arrest, no removal proceedings were pending against him.
41. Respondents provided Mr. Perez-Canan no written notice — before or at the time of his arrest — of any intention to initiate new removal proceedings, to seek to recommence the terminated proceedings, or to revoke the liberty confirmed by the Immigration Judge's June 10, 2022 termination order. He received no statement of individualized cause for his arrest, and no hearing — before or promptly after his arrest — at which a neutral decisionmaker assessed whether his detention is justified by flight risk or danger to the community.

42. Only after taking Mr. Perez-Canan into custody did DHS commence new removal proceedings, now venued at the Imperial, California Immigration Court, in which he pursues asylum under INA § 208, withholding of removal under INA § 241(b)(3), and protection under the Convention Against Torture.
43. Since February 26, 2026, Mr. Perez-Canan has been detained at the Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, California 92231. As of the date of this Petition, he has been detained for 103 days.
44. At no time since his re-detention have Respondents provided Mr. Perez-Canan with an individualized custody determination meeting the requirements of 8 U.S.C. § 1226(a) and the Due Process Clause.
45. A remand for a bond hearing before the Imperial Immigration Court would not cure these violations because, as set forth above, bond requests by similarly situated noncitizens before that court are uniformly denied in reliance on *Matter of Yajure Hurtado*, rendering that process futile.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1226(a)

46. Mr. Perez-Canan re-alleges and incorporates by reference each allegation contained above.
47. Section 1226(a) authorizes the arrest of a noncitizen “on a warrant issued by the Attorney General” and detention “pending a decision on whether the alien is to be removed.” When ICE arrested Mr. Perez-Canan on February 26, 2026, no decision on whether he was to be removed was pending: an Immigration Judge had terminated his removal proceedings on

June 10, 2022, nearly four years earlier. His arrest therefore exceeded the authority the statute confers.

48. Even treating his detention as now governed by § 1226(a) by virtue of the proceedings DHS commenced after his arrest, that provision makes detention discretionary and contemplates release on bond or conditional parole following an individualized assessment. Respondents have detained Mr. Perez-Canan for 103 days without any individualized determination that he presents a flight risk or a danger to the community, treating his detention as if it were mandatory. Nothing in § 1226 authorizes that treatment.
49. Because Respondents arrested Mr. Perez-Canan without statutory authority and have held him in a manner the statute does not permit, his detention violates the INA, and the appropriate remedy — in light of the futility of any administrative bond process before the Imperial Immigration Court — is his immediate release.

COUNT TWO

Violation of the Administrative Procedure Act — Detention Contrary to Law

50. Mr. Perez-Canan re-alleges and incorporates by reference each allegation contained above.
51. Respondents' detention of Mr. Perez-Canan without an individualized custody determination, in reliance on *Matter of Yajure Hurtado*, constitutes agency action that is arbitrary, capricious, an abuse of discretion, contrary to constitutional right, and in excess of statutory authority, in violation of 5 U.S.C. § 706(2)(A), (B), and (C).
52. *Matter of Yajure Hurtado* contradicts the plain text of 8 U.S.C. § 1226(a), the Supreme Court's decision in *Jennings v. Rodriguez*, and long-standing administrative practice, and it departed from settled precedent without adequate explanation. Under *Loper Bright*

Enterprises v. Raimondo, 603 U.S. 369 (2024), this Court exercises independent judgment and owes the Board's interpretation no deference.

53. Because the agency action underlying Mr. Perez-Canan's detention is contrary to law, his detention is unlawful, and he is entitled to release.

COUNT THREE

Fifth Amendment — Revocation of Release Without Due Process

54. Mr. Perez-Canan re-alleges and incorporates by reference each allegation contained above.

55. Mr. Perez-Canan held a constitutionally protected liberty interest in the freedom he enjoyed for more than six years — a liberty conclusively confirmed by an Immigration Judge's June 10, 2022 order terminating his removal proceedings. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). A judicial termination order is precisely the kind of official act on which a person is entitled to rely in ordering his life in freedom.

56. The government may not extinguish that liberty in a manner inconsistent with constitutional protections. Due process required, at a minimum, written notice of the government's intention to initiate new proceedings or to take him into custody, a statement of individualized cause, and a prompt determination before a neutral decisionmaker. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Respondents provided none of these protections: they seized Mr. Perez-Canan without warning at a traffic stop, commenced proceedings only after he was already in custody, and 103 days later still have not afforded him any neutral, individualized determination.

57. Because the administrative forum to which Respondents would consign Mr. Perez-Canan cannot provide a meaningful, neutral determination — bond requests before the Imperial

Immigration Court being uniformly denied under *Matter of Yajure Hurtado* — the only remedy adequate to vindicate his due process rights is the restoration of the status quo ante: his immediate release from custody.

PRAYER FOR RELIEF

WHEREFORE, Mr. Perez-Canan respectfully prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order that Mr. Perez-Canan shall not be transferred outside the Southern District of California during the pendency of this action;
3. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr. Perez-Canan from custody, because he was lawfully released from federal custody as an unaccompanied minor; an Immigration Judge terminated his removal proceedings on June 10, 2022; he remained at liberty in the United States for more than six years, including nearly four years during which no removal proceedings of any kind were pending against him; he has no criminal history; and he was re-arrested without statutory authority, without written notice, and has been detained for 103 days without any individualized determination by a neutral decisionmaker that his detention is justified. Mr. Perez-Canan expressly does not request a remand to the Immigration Court for a bond hearing, which would be futile for the reasons set forth above; in the alternative to immediate release, he requests only that this Court itself conduct a custody hearing within seven (7) days at which Respondents bear the burden of establishing, by clear and convincing evidence, that he is a flight risk or a danger to the community, *see Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011);

4. Issue an Order to Show Cause why this Petition should not be granted within three (3) days, and set a hearing on this Petition within five (5) days of the return, pursuant to 28 U.S.C. § 2243;
5. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Mr. Perez-Canan;
6. Declare that Mr. Perez-Canan's detention violates the Immigration and Nationality Act;
7. Declare that Mr. Perez-Canan's detention violates the Due Process Clause of the Fifth Amendment;
8. Award Mr. Perez-Canan his reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
9. Grant such other and further relief as this Court deems just and proper.

Dated: June 11, 2026

Respectfully submitted,

Christopher J. DeSalva

Christopher J. DeSalva, Esq.
SBN 172209

Law Office of Christopher J. DeSalva
45902 Oasis Street, Suite D
Indio, CA 92201

Telephone: (760) 447-0031

Email: desalvalaw@gmail.com

Counsel for Petitioner

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

I am the attorney for Petitioner Orlin Alexander Perez-Canan. Petitioner is detained at the Imperial Regional Detention Facility in Calexico, California, and is therefore unable to verify this Petition personally. For that reason, and pursuant to 28 U.S.C. § 2242, I verify this Petition on Petitioner's behalf. I have read the foregoing Petition, and the facts stated therein are true and correct to the best of my knowledge, information, and belief, based on my review of the records in Petitioner's immigration proceedings, documents obtained from the government, and communications with Petitioner with the assistance of a Spanish translator.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 11, 2026, at Indio, California.



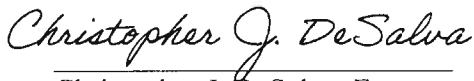
Christopher J. DeSalva, Esq.
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2026, I electronically filed the foregoing VERIFIED EMERGENCY PETITION FOR A WRIT OF HABEAS CORPUS, ORDER TO SHOW CAUSE WITHIN THREE DAYS, AND COMPLAINT FOR DECLARATORY RELIEF with the Clerk of the Court for the United States District Court for the Southern District of California using the Court's CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record, including the United States Attorney's Office for the Southern District of California, counsel for Respondents, each of whom is sued in his or her official capacity.

Dated: June 11, 2026



Christopher J. DeSalva, Esq.