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

JEPTE FUENTES-GOMEZ

Petitioner,

v.

JEREMY CASEY, Warden of the Imperial
Regional Detention Center; DAVID
VENTURELLA, Acting Director of Immigration
and Customs Enforcement; MARKWAYNE
MULLIN, Acting Secretary of the U.S.
Department of Homeland Security; TODD
BLANCHE, Attorney General of the United States

Respondents.

Civil Action No. **'26CV3755 LL MSB**

**VERIFIED PETITION FOR
HABEAS CORPUS**

INTRODUCTION

1. This habeas action challenges Petitioner's continued detention following his return to the United States after Respondents acknowledged that he had been unlawfully removed while his administrative appeal remained pending. Although Respondents ultimately exercised their discretionary parole authority to return Petitioner to this country, they immediately continued his detention without providing notice, an individualized custody determination, or any meaningful opportunity to challenge his confinement before a neutral decisionmaker.

2. Petitioner Jeppe Fuentes-Gomez is a native and citizen of Mexico who entered the United

1 States on or about March 1, 1993. For more than thirty years, Petitioner has lived continuously in the
2 United States, established substantial family and community ties, maintained steady employment, and
3 accumulated no criminal history. Petitioner is married to a United States citizen who continues to undergo
4 treatment for recurrent breast cancer and has long depended upon Petitioner for emotional, financial, and
5 day-to-day support.

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7 3. On June 10, 2025, immigration officers detained Petitioner during a workplace
8 immigration enforcement operation in Ventura County, California. At the time of his arrest, Respondents
9 had not issued a Form I-200 Warrant for Arrest of Alien, had not served Petitioner with a Notice to Appear,
10 and, upon information and belief, possessed no administrative warrant authorizing his arrest. Petitioner
11 nevertheless remained in custody without any pre-deprivation process. More than one month later, on July
12 11, 2025, Respondents issued a Form I-200 and served Petitioner with a Notice to Appear charging him
13 solely under INA § 212(a)(6)(A)(i).

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15 4. During his removal proceedings, Petitioner sought Cancellation of Removal pursuant to
16 INA § 240A(b), relying upon his more than thirty years of continuous residence, good moral character,
17 absence of any criminal history, and the exceptional and extremely unusual hardship that his removal
18 would impose upon his United States citizen spouse. After the Immigration Judge denied relief under
19 circumstances Petitioner contends violated due process, Petitioner timely appealed to the Board of
20 Immigration Appeals on November 24, 2025.

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22 5. Despite the pendency of that appeal, Respondents removed Petitioner to Mexico on
23 December 4, 2025. Four days later, counsel notified ICE and the Office of Chief Counsel that Petitioner's
24 appeal remained pending and that his removal had occurred before completion of the administrative
25 appellate process. Respondents thereafter reviewed Petitioner's case, confirmed that the appeal had been
26 timely filed and remained pending, and initiated a process to facilitate Petitioner's return to the United
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1 States.

2 6. Over the following six months, Respondents repeatedly represented that they were
3 coordinating Petitioner's return. Relying upon those representations, Petitioner complied with every
4 instruction provided by ICE, including traveling to the Calexico/Mexicali area and remaining available
5 for processing through a designated Port of Entry. Despite Petitioner's complete cooperation, Respondents
6 delayed his return for more than six months, causing substantial financial hardship and prolonging
7 Petitioner's separation from his wife during her ongoing cancer treatment.

9 7. On June 25, 2026, Respondents finally exercised their discretionary parole authority to
10 return Petitioner to the United States. Rather than restoring Petitioner to liberty or providing an
11 individualized custody determination, however, Respondents immediately continued his detention and
12 transferred him to the Imperial Regional Detention Facility.

14 8. Respondents never afforded Petitioner notice that they intended to continue his detention
15 following his return, never conducted an individualized assessment of whether detention remained
16 necessary, never considered whether less restrictive alternatives would satisfy the Government's interests,
17 and never provided Petitioner any pre-deprivation hearing before a neutral decisionmaker.

19 9. Respondents now contend that Petitioner's detention is governed by 8 U.S.C. § 1225(b),
20 relying upon the Department of Homeland Security's Interim Guidance issued July 8, 2025 and the Board's
21 decisions in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec.
22 66 (BIA 2025). Those authorities, however, address only the statutory source of detention authority. They
23 do not authorize Respondents to continue depriving Petitioner of his liberty without constitutionally
24 adequate process, nor do they eliminate the protections guaranteed by the Fifth Amendment.

26 10. This case therefore presents a straightforward constitutional question. Regardless of
27 whether Respondents rely upon § 1225(b) or § 1226(a), the Fifth Amendment prohibits the Government
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1 from continuing to deprive an individual of physical liberty without notice, an individualized custody
2 determination, and constitutionally adequate process. Those protections are particularly important where,
3 as here, Respondents themselves exercised discretion to return Petitioner to the United States after
4 acknowledging that his removal occurred while his administrative appeal remained pending.

5 11. Petitioner seeks a writ of habeas corpus ordering his immediate release because
6 Respondents have failed to provide the constitutional process required before continuing his detention.
7 Alternatively, Petitioner requests that this Court order Respondents to provide a prompt individualized
8 custody hearing before a neutral decisionmaker at which the Government bears the burden of establishing,
9 by clear and convincing evidence, that Petitioner's continued detention is necessary.

10 12. Accordingly, this case does not principally concern Petitioner's removal from the United
11 States. That error has already been acknowledged by Respondents. Rather, this case concerns
12 Respondents' continuing deprivation of Petitioner's liberty. Having lived openly in the United States for
13 more than thirty years before his arrest, and after being returned following Respondents' acknowledged
14 unlawful removal, Petitioner remains imprisoned without the constitutionally required process.

15 JURISDICTION

16 • 13. This action arises under the Constitution of the United States and the INA, 8 U.S.C.
17 § 1101 *et seq.*

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

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

23 VENUE

16. Venue is proper because Petitioner is detained in Imperial Regional Detention Center, which is within the jurisdiction of this District. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States. *See* 28 U.S.C. § 1391(e).

PARTIES

17. Respondent Jeremy Casey is sued in his official capacity as Warden of the Imperial Regional Detention Center. Respondent Casey is the physical custodian of Petitioner.

18. Respondent David Venturella is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. Respondent Venturella is a legal custodian of Petitioner and has authority to release him.

19. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the INA, and oversees ICE, the component agency responsible for Petitioner's detention and custody. Respondent Mullin is a legal custodian of Petitioner.

20. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice. In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

21. Petitioner Jepte Fuentes-Gomez is a native and citizen of Mexico.

22. Petitioner entered the United States without inspection on or about March 1, 1993.

23. Petitioner has continuously resided in the United States for more than thirty years.

24. During his decades of residence, Petitioner established substantial family, employment,

1 and community ties within the United States.

2 25. Petitioner has no criminal history.

3 26. Petitioner is married to a United States citizen.

4 27. Petitioner's wife suffers from recurrent breast cancer and continues to undergo ongoing
5 medical treatment.

6
7 28. Prior to Petitioner's detention, Petitioner served as his wife's primary source of
8 emotional support, financial support, and day-to-day care throughout her medical treatment.

9 29. On June 10, 2025, after living openly in the United States for more than thirty years,
10 Petitioner reported to work as he had done for many years. During a workplace immigration
11 enforcement operation in Ventura County, California, immigration officers seized Petitioner and took
12 him into custody. At the time of the arrest, Respondents had not issued a Form I-200 Warrant for Arrest
13 of Alien and, upon information and belief, possessed no administrative warrant authorizing Petitioner's
14 arrest.
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16 30. Petitioner was not arrested pursuant to any criminal warrant.

17 31. Petitioner was not detained because of any criminal conduct.

18
19 32. At the time of Petitioner's arrest, Respondents had not issued a Form I-200 Warrant for
20 Arrest of Alien.

21 33. Upon information and belief, no administrative warrant existed authorizing Petitioner's
22 arrest on June 10, 2025.

23 34. Respondents nevertheless took Petitioner into custody.

24 35. Petitioner remained detained following his arrest despite the absence of any preexisting
25 administrative warrant.
26

27 36. Approximately thirty-one days later, on July 11, 2025, Respondents processed
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1 Petitioner, issued a Form I-200 Warrant for Arrest of Alien, and served Petitioner with a Notice to
2 Appear charging him solely under INA § 212(a)(6)(A)(i).

3 37. The Form I-200 was therefore created after Petitioner had already been arrested and
4 detained.

5 38. At no time before his detention was Petitioner afforded notice that Respondents intended
6 to deprive him of his liberty.

7 39. Nor was Petitioner afforded any meaningful opportunity to contest his detention before
8 a neutral decisionmaker.

9 40. During removal proceedings, Petitioner sought Cancellation of Removal pursuant to
10 INA § 240A(b).

11 41. Petitioner's application was based upon, among other things, his more than thirty years
12 of continuous physical presence in the United States, his good moral character, the absence of any
13 criminal history, his longstanding employment, and the exceptional and extremely unusual hardship
14 his removal would impose upon his United States citizen spouse.

15 42. Petitioner's spouse's recurrent breast cancer and continuing medical treatment
16 constituted a significant humanitarian consideration throughout the removal proceedings.

17 43. The Immigration Judge denied Petitioner's application under circumstances Petitioner
18 contends violated his constitutional right to due process.

19 44. On November 24, 2025, Petitioner timely filed a Notice of Appeal with the Board of
20 Immigration Appeals.

21 45. Petitioner's appeal remained pending.

22 46. Nevertheless, on December 4, 2025, Respondents removed Petitioner from the United
23 States to Mexico before completion of the administrative appellate process.

1 47. On December 8, 2025, undersigned counsel notified ICE and the Office of Chief
2 Counsel that Petitioner's appeal remained pending at the time of removal.

3 48. Counsel provided documentation establishing that the appeal had been timely filed.

4 49. Upon information and belief, officials within ICE and the Office of Chief Counsel
5 reviewed Petitioner's case and confirmed that Petitioner's appeal had been timely filed and remained
6 pending when he was removed.

7
8 50. Respondents thereafter initiated a process intended to facilitate Petitioner's return to the
9 United States.

10 51. During the following months, Respondents repeatedly represented that they were
11 coordinating Petitioner's return.

12
13 52. Petitioner and undersigned counsel fully cooperated with every request made by
14 Respondents in connection with the return process.

15 53. At Respondents' direction, Petitioner traveled to the Calexico/Mexicali area in
16 anticipation of presenting himself at a designated Port of Entry.

17
18 54. Respondents instructed Petitioner not to independently present himself to U.S. Customs
19 and Border Protection but instead to await further instructions after coordination had been completed.

20 55. Relying upon Respondents' representations, Petitioner remained available for return
21 processing.

22 56. In doing so, Petitioner incurred substantial transportation, lodging, food, and other living
23 expenses that he otherwise would not have incurred.

24
25 57. More than six months elapsed before Respondents completed Petitioner's return to the
26 United States.

27 58. Throughout that period, Petitioner remained separated from his wife while she continued
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1 to undergo treatment for recurrent breast cancer.

2 59. On June 25, 2026, Respondents exercised their discretionary parole authority and
3 returned Petitioner to the United States through the Calexico Port of Entry.

4 60. Rather than restoring Petitioner's liberty upon his return, Respondents immediately
5 continued his detention.
6

7 61. Petitioner was transferred to the Imperial Regional Detention Facility, where he remains
8 detained.

9 62. Prior to continuing Petitioner's detention following his parole into the United States,
10 Respondents did not provide Petitioner notice that they intended to continue his confinement.
11

12 63. Respondents did not conduct any individualized custody determination concerning
13 whether Petitioner's continued detention was necessary.

14 64. Respondents did not consider whether less restrictive alternatives to detention would
15 satisfy any legitimate governmental interest.

16 65. Respondents did not afford Petitioner a pre-deprivation hearing before a neutral
17 decisionmaker.
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19 66. Upon information and belief, Respondents continue to detain Petitioner under the
20 authority of 8 U.S.C. § 1225(b), relying upon the Department of Homeland Security's July 8, 2025
21 Interim Guidance and the Board's decisions in Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025),
22 and Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025).
23

24 67. Petitioner disputes that statutory authority and contends that his continued detention is
25 governed by 8 U.S.C. § 1226(a).

26 68. Regardless of the statutory source of detention authority, Respondents have continued
27 to deprive Petitioner of his physical liberty without providing the notice, individualized custody
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determination, and constitutionally adequate process required by the Fifth Amendment.

69. Petitioner remains detained at the Imperial Regional Detention Facility solely as a result of Respondents' continuing custody determination.

70. Petitioner therefore seeks a writ of habeas corpus restoring his liberty and ordering his immediate release from custody.

STATUTORY FRAMEWORK

71. The INA prescribes three primary statutory authorities that govern detention of noncitizens in removal proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* 8 U.S.C. § 1226(a); 8 U.S.C. § 1229a. Individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

72. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under 8 U.S.C. § 1225(b)(2).

73. Finally, the INA also provides for detention of noncitizens who are subject to final orders of removal, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b). The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(c) was most recently amended earlier this year by the Laken Riley Act (“LRA”), Pub. L. No. 119-1, 139 Stat. 3 (2025).

74. Following enactment of the IIRIRA, the EOIR drafted new regulations explaining that,

1 in general, people who entered the country without inspection were not considered detained under
2 section 1225 and that they were instead detained under section 1226(a). *See* Inspection and Expedited
3 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
4 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens
5 who entered without inspection—unless they were subject to some other detention authority—received
6 bond hearings. This practice was also consistent with the practice prior to the enactment of the IIRIRA,
7 in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ
8 or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229
9 (1996) (noting that section 1226(a) simply “restates” the detention authority previously found at section
10 1252(a)).
11

12
13 75. On July 8, 2025, DHS issued a memo to all employees of ICE stating that “[t]his
14 message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited
15 its legal position on detention and release authorities. DHS has determined that section 235 of the
16 Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226],
17 is the applicable immigration detention authority for all applicants for admission. The following interim
18 guidance is intended to ensure immediate and consistent application of the Department’s legal
19 interpretation while additional operational guidance is developed.” The memo further stated DHS’ new
20 position with regard to custody determinations as follows:
21

22
23 An “applicant for admission” is an alien present in the United States who has not been admitted
24 or who arrives in the United States, whether or not at a designated port of arrival. INA §
25 235(a)(1) [8 U.S.C. § 1225(a)(1)]. **Effective immediately, it is the position of DHS that such**
26 **aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be**
27 **released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible
28 for a custody redetermination hearing (“bond hearing”) before an immigration judge and may
not be released for the duration of their removal proceedings absent a parole by DHS. For
custody purposes, these aliens are now treated in the same manner that “arriving aliens” have
historically been treated. **The only aliens eligible for a custody determination and release**
on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during

1 **removal proceedings are aliens admitted to the United States and chargeable with**
2 **deportability under INA § 237, with the exception of those subject to mandatory detention**
3 **under INA § 236(c) [8 U.S.C. § 1226(c)].**

4 Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants
5 for admission because Form I-286 applies by its terms only to custody determinations under
6 INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception
7 for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will
8 individually advise, if Enforcement and Removal Operations (ERO) previously conducted a
9 custody determination for an applicant for admission still detained in ICE custody, ERO will
10 affirmatively cancel the Form I-286.

11 *See* [https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
12 [applications-for-admission](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission) (last accessed October 18, 2025) (emphasis original).

13 76. As a result, DHS now considers all noncitizens who have entered the United States
14 without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents,
15 to be subject to mandatory detention under section 1225(b) and ineligible for release on bond.
16 Conversely, according to DHS “[t]he only aliens eligible for a custody determination and release on
17 recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal
18 proceedings are aliens admitted to the United States and chargeable with deportability under INA §
19 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. §
20 1226(c)].” *Id.*

21 77. Shortly thereafter, the Board of Immigration Appeals (“BIA”) issued decisions
22 reflecting the same interpretation. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) and *Matter of Yajure*
23 *Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board concluded that Immigration Judges lack bond
24 authority over certain noncitizens present in the United States without admission because, in the
25 Board’s view, § 1225(b)(2)(A) mandates detention of such “applicants for admission” during removal
26 proceedings.

27 78. Federal courts, however, have rejected DHS’s attempt to reclassify noncitizens already
28 placed in removal proceedings as subject to mandatory detention under § 1225(b). Courts have

1 recognized that such individuals remain properly detained, if at all, under § 1226(a) and therefore retain
2 the statutory right to seek release on bond. See, e.g., *Bautista–Maldonado v. DHS*, holding that DHS
3 may not retroactively convert individuals already in removal proceedings into § 1225(b) detainees in
4 order to deny them access to bond.

5 79. Respondents The Immigration and Nationality Act ("INA") establishes separate
6 statutory authorities governing the detention of noncitizens during removal proceedings.

7 80. Section 236(a) of the INA, codified at 8 U.S.C. § 1226(a), governs the detention of most
8 noncitizens placed in removal proceedings under 8 U.S.C. § 1229a. That provision authorizes
9 discretionary detention and permits release on bond or conditional parole pending completion of
10 removal proceedings. Individuals detained under § 1226(a) may seek custody redetermination before
11 an Immigration Judge. See 8 C.F.R. §§ 1003.19(a), 1236.1(d).

12 81. By contrast, 8 U.S.C. § 1225(b) governs certain applicants for admission, including
13 individuals seeking admission at ports of entry and certain other noncitizens treated as applicants for
14 admission. Section 1225(b) generally requires detention during removal proceedings unless the
15 Secretary exercises discretionary parole authority under 8 U.S.C. § 1182(d)(5).

16 82. For decades following enactment of the Illegal Immigration Reform and Immigrant
17 Responsibility Act of 1996 ("IIRIRA"), DHS generally treated noncitizens who had entered the United
18 States without inspection and who had been placed into removal proceedings under 8 U.S.C. § 1229a
19 as detained, if at all, pursuant to § 1226(a), thereby permitting custody redetermination before an
20 Immigration Judge.

21 83. On July 8, 2025, however, DHS issued Interim Guidance announcing a revised legal
22 interpretation under which all noncitizens who entered without inspection and remain applicants for
23 admission would henceforth be detained pursuant to § 1225(b), rather than § 1226(a). Under that
24

1 guidance, such individuals are considered ineligible for bond before an Immigration Judge and may be
2 released only through the Secretary's discretionary parole authority.

3 84. Shortly thereafter, the Board of Immigration Appeals issued Matter of Q. Li, 29 I&N
4 Dec. 66 (BIA 2025), and Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025), concluding that
5 Immigration Judges generally lack bond jurisdiction over certain noncitizens whom DHS classifies as
6 applicants for admission subject to § 1225(b).
7

8 85. Respondents rely upon that Interim Guidance and those Board decisions to contend that
9 Petitioner's continued detention is governed by § 1225(b) and that he is categorically ineligible for
10 release on bond.

11 86. Petitioner disputes that contention. Petitioner was not apprehended at the time of entry.
12 Instead, he lived continuously in the United States for more than thirty years before being arrested
13 during a workplace enforcement operation on June 10, 2025. He was thereafter placed into removal
14 proceedings under 8 U.S.C. § 1229a through service of a Notice to Appear charging him solely under
15 INA § 212(a)(6)(A)(i).
16

17 87. Moreover, after Respondents removed Petitioner while his administrative appeal
18 remained pending, Respondents exercised their discretionary parole authority to return Petitioner to the
19 United States on June 25, 2026. Having exercised discretionary custody authority to facilitate
20 Petitioner's return, Respondents immediately continued Petitioner's detention without conducting any
21 individualized custody determination or providing constitutionally adequate process.
22

23 88. Regardless of whether Respondents characterize Petitioner's detention as arising under
24 § 1225(b) or § 1226(a), neither statute authorizes the Government to continue depriving an individual
25 of physical liberty without complying with the requirements of the Fifth Amendment.
26

27 89. The constitutional question presented in this case is therefore independent of the parties'
28

1 dispute concerning the statutory source of detention authority. Even assuming, arguendo, that
2 Respondents possess statutory authority to detain Petitioner, due process requires constitutionally
3 adequate procedures before the Government may continue depriving Petitioner of his liberty.

4 90. Respondents provided no such process. Petitioner was not afforded notice that
5 Respondents intended to continue his detention following his return to the United States, was not
6 provided an individualized custody determination, and was not afforded any hearing before a neutral
7 decisionmaker regarding whether continued detention was necessary.
8

9 91. Accordingly, this case presents both a statutory dispute regarding the proper source of
10 detention authority and an independent constitutional challenge to Respondents' continued detention of
11 Petitioner without the process required by the Due Process Clause of the Fifth Amendment.
12

13 **CLAIMS FOR RELIEF**

14 **COUNT ONE**

15 **Violation of Petitioner's Fifth Amendment Right to Procedural Due Process**

16 92. Petitioner realleges and incorporates by reference all preceding paragraphs as though
17 fully set forth herein.
18

19 93. The Fifth Amendment provides that no person shall be deprived of liberty without due
20 process of law. U.S. Const. amend. V.

21 94. Freedom from physical restraint lies at the core of the liberty protected by the Due
22 Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
23

24 95. Petitioner has continuously resided in the United States for more than thirty years, has
25 no criminal history, has substantial family and community ties, and is married to a United States citizen
26 who continues to undergo treatment for recurrent breast cancer.

27 96. On June 10, 2025, Respondents detained Petitioner during a workplace immigration
28

1 enforcement operation without first providing notice, an individualized custody determination, or any
2 opportunity to be heard regarding the necessity of detention.

3 97. More than one month after Petitioner's arrest, Respondents issued a Form I-200 Warrant
4 for Arrest of Alien and served Petitioner with a Notice to Appear charging him solely under INA §
5 212(a)(6)(A)(i).

6 98. During removal proceedings, Petitioner sought Cancellation of Removal pursuant to
7 INA § 240A(b), and timely appealed the Immigration Judge's denial of relief to the Board of
8 Immigration Appeals.

9 99. Respondents nevertheless removed Petitioner from the United States while that appeal
10 remained pending.

11 100. After being notified of Petitioner's pending appeal, Respondents reviewed the matter,
12 acknowledged that Petitioner's appeal remained pending at the time of removal, and initiated a process
13 to facilitate Petitioner's return to the United States.

14 101. On June 25, 2026, Respondents exercised their discretionary parole authority to return
15 Petitioner to the United States.

16 102. Upon Petitioner's return, Respondents immediately continued Petitioner's detention
17 without providing any individualized custody determination or constitutionally adequate process.

18 103. Prior to continuing Petitioner's detention following parole into the United States,
19 Respondents did not provide Petitioner notice that they intended to continue his confinement.

20 104. Respondents did not provide Petitioner with a meaningful opportunity to contest the
21 legal or factual basis for continued detention.

22 105. Respondents did not conduct any individualized assessment regarding whether
23 Petitioner posed a danger to the community or a risk of flight.

1 106. Respondents did not consider Petitioner's more than thirty years of continuous residence
2 in the United States, his complete lack of criminal history, his extensive family and community ties,
3 his longstanding employment history, his wife's serious medical condition, or any less restrictive
4 alternative to continued detention.

5 107. Respondents did not provide Petitioner with a hearing before a neutral decisionmaker
6 before continuing to deprive him of his physical liberty.
7

8 108. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner's private interest in
9 maintaining his physical liberty is extraordinarily significant.

10 109. The risk of erroneous deprivation is substantial where Respondents continue to detain
11 Petitioner without any individualized process or opportunity to be heard.
12

13 110. The probable value of additional procedural safeguards—including notice, an
14 individualized custody determination, and an opportunity to present evidence before a neutral
15 decisionmaker—is substantial.

16 111. Any governmental burden associated with providing constitutionally adequate
17 procedures is minimal, particularly where Respondents had already exercised discretionary authority
18 to facilitate Petitioner's return to the United States.
19

20 112. Respondents therefore deprived Petitioner of liberty without constitutionally adequate
21 process in violation of the Fifth Amendment.

22 113. The constitutional violation is independent of the parties' dispute regarding whether
23 Petitioner's detention is governed by 8 U.S.C. § 1225(b) or § 1226(a). Regardless of the statutory source
24 of detention authority, the Constitution prohibits the Government from continuing to deprive an
25 individual of physical liberty without due process of law.
26

27 114. Petitioner's continued detention is therefore unlawful.
28

necessary.

COUNT TWO

Violation of Petitioner's Fifth Amendment Right to Substantive Due Process

fully set forth herein.

arbitrary, conscience-shocking, or not reasonably related to a legitimate governmental objective.

protecting the community from danger.

suffering from recurrent breast cancer.

warrant.

three decades before abruptly arresting him during a workplace enforcement operation. During those

1 thirty years, Petitioner accumulated no criminal history, maintained steady employment, established
2 substantial family ties, and remained continuously available to the Government. Nothing occurring
3 immediately before the arrest suggested that Petitioner presented a danger to the community, posed a
4 flight risk, or required immediate detention.

5 122. Respondents did not issue a Form I-200 Warrant for Arrest of Alien or serve Petitioner
6 with a Notice to Appear until approximately one month after Petitioner's arrest.

7 123. During removal proceedings, Petitioner sought Cancellation of Removal and timely
8 appealed the Immigration Judge's decision to the Board of Immigration Appeals.

9 124. Despite the pendency of that appeal, Respondents removed Petitioner from the United
10 States on December 4, 2025.

11 125. After counsel notified Respondents that Petitioner's appeal remained pending,
12 Respondents reviewed Petitioner's case, acknowledged that his appeal remained pending at the time of
13 removal, and initiated a process to facilitate Petitioner's return to the United States.

14 126. For more than six months, Respondents repeatedly represented that Petitioner's return
15 was being coordinated and instructed Petitioner to comply with numerous logistical requirements
16 necessary to effectuate his return.

17 127. Petitioner complied fully with every instruction provided by Respondents.

18 128. On June 25, 2026, Respondents exercised their discretionary parole authority to return
19 Petitioner to the United States.

20 129. Upon Petitioner's return, Respondents immediately continued his detention without
21 conducting any individualized assessment regarding whether continued confinement was necessary to
22 protect the public or ensure Petitioner's appearance in immigration proceedings.

23 130. Respondents identified no changed circumstance occurring between their decision to
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1 return Petitioner and their decision to continue detaining him.

2 131. Nor have Respondents alleged that Petitioner violated any immigration requirement,
3 failed to comply with any governmental instruction, attempted to abscond, obstructed the return
4 process, or otherwise demonstrated that continued detention was necessary.

5 132. To the contrary, Petitioner's conduct throughout these proceedings demonstrates
6 complete cooperation with Respondents' directives, including his compliance with every instruction
7 relating to his return to the United States.

8 133. Under these circumstances, Respondents' decision to continue detaining Petitioner
9 without any individualized justification is arbitrary and not reasonably related to a legitimate
10 governmental purpose.

11 134. Respondents' continued detention of Petitioner therefore violates Petitioner's substantive
12 due process rights under the Fifth Amendment.

13 135. Immediate release is necessary to remedy the ongoing constitutional violation.
14 Alternatively, the Court should order Respondents to provide an immediate individualized custody
15 determination consistent with the requirements of the Fifth Amendment..

16 COUNT THREE

17 **Violation of the Immigration and Nationality Act**

18 136. Petitioner realleges and incorporates by reference all preceding paragraphs as though
19 fully set forth herein.

20 137. The Immigration and Nationality Act establishes separate statutory schemes governing
21 detention under 8 U.S.C. §§ 1225 and 1226.

22 138. Petitioner entered the United States without inspection on or about March 1, 1993 and
23 remained continuously present in the United States for more than thirty years before Respondents
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1 initiated removal proceedings.

2 139. On July 11, 2025, Respondents served Petitioner with a Notice to Appear initiating
3 removal proceedings under 8 U.S.C. § 1229a and charging him solely under INA § 212(a)(6)(A)(i).

4 140. Respondents now contend that Petitioner's continued detention is governed by 8 U.S.C.
5 § 1225(b), relying upon DHS's July 8, 2025 Interim Guidance and the Board's decisions in *Matter of*
6 *Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

7 141. Petitioner disputes that interpretation and contends that, having been placed into
8 removal proceedings under § 1229a after residing in the United States for more than thirty years, any
9 continued detention is governed by 8 U.S.C. § 1226(a), which authorizes discretionary detention and
10 permits an individualized custody determination.
11

12 142. Respondents' interpretation improperly treats every noncitizen who originally entered
13 without inspection as perpetually subject to mandatory detention under § 1225(b), regardless of the
14 procedural posture of the removal proceedings or the exercise of subsequent discretionary custody
15 authority.
16

17 143. Respondents' own actions further demonstrate that Petitioner's custody was not treated
18 as mandatory. After acknowledging that Petitioner had been removed while his administrative appeal
19 remained pending, Respondents exercised discretionary parole authority to facilitate Petitioner's return
20 to the United States on June 25, 2026.
21

22 144. Having exercised discretionary authority to return Petitioner to the United States,
23 Respondents nevertheless continued Petitioner's detention without affording him the individualized
24 custody determination contemplated by § 1226(a).
25

26 145. Respondents' continued reliance upon § 1225(b) therefore exceeds their statutory
27 authority under the Immigration and Nationality Act.
28

1 146. Alternatively, even if Respondents possess statutory authority to detain Petitioner under
2 § 1225(b), nothing in the Immigration and Nationality Act authorizes Respondents to continue
3 depriving Petitioner of his liberty in violation of the Fifth Amendment.

4 147. Petitioner's continued detention is therefore contrary to law and is reviewable under 28
5 U.S.C. § 2241.
6

7 148. Petitioner respectfully requests that this Court issue a writ of habeas corpus ordering his
8 immediate release from custody. Alternatively, Petitioner requests that the Court declare that his
9 detention is governed by 8 U.S.C. § 1226(a) and order Respondents to provide an immediate
10 individualized custody determination consistent with that statute and the requirements of due process.
11

12 **COUNT FOUR**

13 **Violation of the Fourth Amendment**

14 149. Petitioner realleges and incorporates by reference all preceding paragraphs as though
15 fully set forth herein.

16 150. The Fourth Amendment guarantees the right of persons to be free from unreasonable
17 searches and seizures.
18

19 151. A civil immigration arrest constitutes a seizure within the meaning of the Fourth
20 Amendment.

21 152. Immigration officers may arrest a noncitizen without an administrative warrant only
22 under the limited circumstances authorized by Congress, including where the officer has reason to
23 believe the individual is present in the United States in violation of law and is likely to escape before a
24 warrant can be obtained. See 8 U.S.C. § 1357(a)(2).
25

26 153. On June 10, 2025, Respondents arrested Petitioner during a workplace immigration
27 enforcement operation in Ventura County, California.
28

1 154. At the time of Petitioner's arrest, Respondents had not issued a Form I-200 Warrant for
2 Arrest of Alien.

3 155. Upon information and belief, no administrative warrant authorized Petitioner's arrest on
4 June 10, 2025.

5 156. Approximately thirty-one days later, on July 11, 2025, Respondents issued a Form I-
6 200 Warrant for Arrest of Alien and served Petitioner with a Notice to Appear.

7 157. The Form I-200 was therefore created after Petitioner had already been arrested and
8 detained.
9

10 158. At the time of Petitioner's arrest, Petitioner had resided openly in the United States for
11 more than thirty years.
12

13 159. Petitioner had no criminal history.

14 160. Petitioner was employed and living openly within the community.

15 161. Upon information and belief, Respondents possessed no information suggesting that
16 Petitioner was likely to escape before an administrative warrant could be obtained.
17

18 162. Upon information and belief, Respondents have never contended that Petitioner was
19 likely to escape before an administrative warrant could be obtained, nor have they identified any exigent
20 circumstance justifying a warrantless arrest.

21 163. The subsequent issuance of a Form I-200 approximately one month after Petitioner's
22 arrest cannot retroactively validate an otherwise unlawful seizure.
23

24 164. Petitioner's continued detention flows directly from the unlawful seizure initiated on
25 June 10, 2025.

26 165. Because Petitioner's detention originated from an unconstitutional seizure, his continued
27 detention is unlawful and subject to review under 28 U.S.C. § 2241.
28

166. Petitioner respectfully requests that this Court grant the writ of habeas corpus and order his immediate release from custody.

PRAYER FOR RELIEF

Wherefore, Petitioner requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Grant the Petition for Writ of Habeas Corpus;
3. Declare that Respondents' continued detention of Petitioner violates the Due Process Clause of the Fifth Amendment;
4. Declare that Respondents' continued detention of Petitioner is unauthorized under the Immigration and Nationality Act because Petitioner's detention, if authorized at all, is governed by 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b);
5. Declare that Petitioner's initial warrantless arrest and seizure on June 10, 2025 violated the Fourth Amendment;
6. Order Respondents to immediately release Petitioner from ICE custody;
7. Alternatively, if the Court determines that immediate release is not warranted, order Respondents to provide Petitioner with a prompt individualized custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing by clear and convincing evidence that Petitioner's continued detention is necessary because he presents either a danger to the community or a significant risk of flight;
8. Award Petitioner his reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, to the extent permitted by law;
9. Grant such other and further relief as the Court deems just, proper, and equitable.

Respectfully,

1 /s/ Gurpreet Kaur
2 Gurpreet Kaur, Esq.

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

7 I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained
8 at the Imperial Regional Detention Center and immediate relief is sought, counsel verifies this petition
9 on his behalf pursuant to 28 U.S.C. § 2242. I hereby verify that the factual statements made in the
10 foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.
11

12
13 Dated this 26th day of June, 2026.

14
15 /s/ Gurpreet Kaur
16 Gurpreet Kaur, Esq.
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