

Mario Portugal, SBN 337525
Global Law Group San Diego, P.C.
1455 Frazee Road, Suite 500
San Diego, CA 92108
Tel: (858) 833-2020
Fax: (619) 839-3152

DETAINED

Attorney for Petitioner Julio MATEO LORENZO

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

In the Matter of:

Case No.: '26CV3767 DMS MMP

MATEO LORENZO, JULIO

Petitioner,

v.

CHRISTOPHER J. LaROSE, Senior
Warden, Otay Mesa Detention
Center; GREGORY J.
ARCHAMBEAULT, Field Office
Director, San Diego Field Office,
U.S. Immigration and Customs
Enforcement; DAVE
VENTURELLA,
Acting Director, U.S. Immigration
and Customs Enforcement; and
MARKWAYNE MULLIN, Secretary,
U.S. Department of Homeland
Security,

Respondents.


**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS**

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

Petitioner Julio Mateo Lorenzo, by and through undersigned counsel, respectfully
petitions this Honorable Court for a writ of habeas corpus ordering his release from
unlawful detention, or, in the alternative, ordering a constitutionally adequate bond
hearing, and in support states as follows:

INTRODUCTION

1. Petitioner Julio Mateo Lorenzo is a noncitizen detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Otay Mesa Detention Center in San Diego, California, where he has been held since on or about June 10, 2026.
2. Petitioner is in removal proceedings under section 240 of the Immigration and Nationality Act (“INA”), in which he seeks asylum. His next Master Calendar Hearing is scheduled before Immigration Judge Robinson on July 16, 2026, at 1:00 p.m.
3. Petitioner is neither a danger to the community nor a flight risk. He has no criminal convictions, and the Government itself has twice determined that he need not be detained: in 2023, ICE took Petitioner into custody and released him, and then, that same week, took him into custody again and once more released him. In the years that followed, Petitioner did not abscond. He remained in the community, living and working, until ICE detained him again on June 10, 2026, as he was on his way to work.
4. Petitioner has secured a responsible sponsor — Nicolas Castaneda, a lawful permanent resident of the United States who has known Petitioner for more than three years — who has committed under oath to provide Petitioner with housing and financial support and to ensure his appearance at every immigration proceeding.

- 1 5. Notwithstanding these facts, Respondents continue to detain Petitioner without
2 any individualized determination that he is a danger or a flight risk, and without
3 affording him a constitutionally adequate bond hearing before a neutral
4 decisionmaker at which the Government bears the burden of justifying his
5 confinement.
6
- 7 6. Civil immigration detention is not punishment; it is constitutionally permissible
8 only when it serves the Government's narrow interests in preventing danger and
9 flight, and only when it is accompanied by adequate procedural safeguards.
10 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner's detention satisfies
11 neither requirement.
12
- 13 7. Petitioner therefore seeks an order directing Respondents to release him or, in the
14 alternative, to afford him a constitutionally adequate bond hearing within fourteen
15 days — at which the Government bears the burden of proving, by clear and
16 convincing evidence, that no condition or combination of conditions of release
17 will protect against danger or flight — so that he may avoid the irreparable harm
18 of continued, unjustified separation from his community while his removal case
19 proceeds.
20
21
22
23

24 JURISDICTION

- 25 8. This action arises under the Due Process Clause of the Fifth Amendment to the
26 United States Constitution and the INA. Jurisdiction is proper under 28 U.S.C. §
27

1 1331 (federal question) and 28 U.S.C. § 2241 (habeas corpus); U.S. Const. art. I, §
2 9, cl. 2 (Suspension Clause); and 5 U.S.C. § 702 (Administrative Procedure Act).

3 The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et
4 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs
5 Act, 28 U.S.C. § 1651.

6
7 9. This Court’s habeas jurisdiction extends to constitutional and legal challenges to
8 immigration detention and to bond determinations. Although 8 U.S.C. § 1226(e)
9 limits review of discretionary judgments, it does not bar review of constitutional
10 claims or questions of law, and a district court retains jurisdiction to review a
11 custody determination that is legally erroneous or unconstitutional. *Martinez v.*
12 *Clark*, 124 F.4th 775, 781-82 (9th Cir. 2024); see *Demore v. Kim*, 538 U.S. 510,
13 516-17 (2003).

14
15
16
17 10. Petitioner is “in custody” for purposes of 28 U.S.C. § 2241 because he is held in
18 the legal and physical custody of Respondents at the Otay Mesa Detention Center,
19 under the direct control of Respondents and their agents.
20

21 VENUE

22 11. Venue is proper in the Southern District of California because it is the district of
23 confinement — the district in which Petitioner is detained and in which his
24 immediate custodian is located. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004);
25 *Doe v. Garland*, 109 F.4th 1188, 1194-96 (9th Cir. 2024).
26
27
28

1 12. The Otay Mesa Detention Center is located in San Diego County, within this
2 District, and Petitioner's immediate custodian — the Warden of that facility — is
3 found here. This is therefore the proper forum for Petitioner's core habeas claim
4 challenging his present physical confinement.
5

6 **CUSTODY AND THE REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

7 13. Upon the filing of a habeas petition, the Court must "forthwith" award the writ or
8 issue an order to show cause ("OSC"), unless it appears from the application that
9 the applicant is not entitled to relief. 28 U.S.C. § 2243. The person to whom the
10 order is directed must then make a return "within three days unless for good cause
11 additional time, not exceeding twenty days, is allowed." *Id.*
12
13

14 14. Courts have long recognized the centrality of the writ in protecting individuals
15 from unlawful restraint. The writ of habeas corpus affords "a swift and imperative
16 remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391,
17 400 (1963); see also *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)
18 (recognizing that the habeas statute requires the expeditious determination of
19 petitions).
20
21

22 **EXHAUSTION OF ADMINISTRATIVE PROCEEDINGS**

23 15. To the extent any exhaustion of administrative remedies is required before
24 Petitioner may seek habeas relief, that requirement is prudential rather than
25 jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).
26
27
28

1 16. In deciding whether to require exhaustion of administrative proceedings, courts
2 consider whether agency expertise makes relief likely, whether relaxation of the
3 requirement would encourage the deliberate bypass of the administrative scheme,
4 and whether administrative review would resolve the claim. *Puga v. Chertoff*, 488
5 F.3d 812, 815 (9th Cir. 2007). A court may waive the requirement where
6 administrative remedies are inadequate or ineffective, pursuing them would be
7 futile, or irreparable injury would result. *Hernandez*, 872 F.3d at 988 (quoting
8 *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).
9
10
11 17. Each consideration favors review here. Petitioner's claims present purely legal and
12 constitutional questions — whether his detention without an individualized,
13 burden-shifted bond hearing comports with due process — that the agency has no
14 authority to resolve in his favor and that require no further factual development.
15 And every additional day of unjustified detention inflicts irreparable harm on
16 Petitioner's liberty. Any exhaustion requirement is therefore satisfied or should be
17 waived.
18
19
20

21 STANDARD OF REVIEW

22 18. On habeas review, the Court decides the constitutional and legal questions
23 presented de novo, reviewing any subsidiary factual questions for clear error.
24 *Singh*, 638 F.3d at 1202-03. The Court does not sit to reweigh a discretionary
25 custody judgment committed to the agency, but it fully reviews whether
26
27
28

Petitioner's detention conforms to the Constitution and the law. *Martinez v. Clark*, 124 F.4th at 781-82.

19. Where detention is found unlawful, the Court's remedial authority is broad. The Court may grant the writ and order Petitioner's release, with or without conditions, or it may order Respondents to provide a constitutionally adequate bond hearing before a neutral decisionmaker within a fixed period. *Singh*, 638 F.3d at 1200, 1208-09 (directing issuance of the writ and release absent a conforming hearing within a set time).

20. To the extent Respondents invoke 8 U.S.C. § 1252(f)(1), that provision restrains only class-wide injunctive relief against the operation of the detention statutes; it does not bar the individualized relief Petitioner seeks here — release on habeas corpus, declaratory relief, and an order directing a lawful custody hearing in his own case. *Garland v. Aleman Gonzalez*, 596 U.S. 543, 550 (2022).

PARTIES

21. Petitioner Julio Mateo Lorenzo ("Petitioner") is a native and citizen of Guatemala,



He is currently detained at the Otay Mesa Detention Center in San Diego, California, as of the filing of this Petition.

22. Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa Detention Center, where Petitioner is detained. He is responsible for the day-to-

1 day operations and confinement of noncitizens detained at that facility, is
2 Petitioner's immediate custodian, and is named in an official capacity.

3 23. Respondent Gregory J. Archambeault is the Field Office Director of the ICE San
4 Diego Field Office, whose area of responsibility includes San Diego and Imperial
5 Counties. ICE is responsible for custody decisions relating to noncitizens charged
6 as removable, including their arrest, detention, custody status, and removal.
7

8 Respondent Archambeault acts at the direction of Respondents Venturella and
9 Mullin, is a custodian of Petitioner, and is named in an official capacity.
10

11 24. Respondent Dave Venturella is the Acting Director of ICE and has authority over
12 the actions of the other ICE Respondents. Respondent Venturella is a custodian of
13 Petitioner and is named in an official capacity.
14

15 25. Respondent Markwayne Mullin is the Secretary of the U.S. Department of
16 Homeland Security ("DHS") and has authority over all operations and components
17 of DHS, including ICE. The Secretary is charged with administering and
18 enforcing the immigration and naturalization laws of the United States. 8 U.S.C. §
19 1103(a). Respondent Mullin is a custodian of Petitioner and is named in an official
20 capacity.
21
22

23 26. This action is commenced against all Respondents in their official capacities.
24
25
26
27
28

STATEMENT OF FACTS

1 27. Petitioner is a native and citizen of Guatemala, [REDACTED]. He has
2
3 lived in the United States, where he has worked to support himself and built ties to
4 his community, and he has remained present and available to the immigration
5 authorities since at least 2023.
6

7 28. Petitioner is not unknown to immigration authorities. In 2023, Petitioner was
8 taken into immigration custody and released. That same week, he was taken into
9 custody again and released. On both occasions, the authorities themselves
10 determined that Petitioner could be released rather than detained.
11

12 29. Following those releases, Petitioner remained in the United States, living and
13 working in the community. He did not abscond, go into hiding, or otherwise fail to
14 remain available to the authorities during the years that followed.
15

16 30. On or about June 10, 2026, while Petitioner was on his way to work, he passed
17 through an immigration checkpoint and was taken into custody by ICE.
18

19 31. At the time of his arrest, Petitioner was complying with the law and going about
20 his daily life. He was not fleeing, hiding, or attempting to evade the authorities; he
21 was simply traveling to his place of employment. He was taken into custody not
22 because of any new finding that he posed a danger or flight risk, but because he
23 encountered an immigration checkpoint at San Clemente, California.
24
25
26
27
28

1 32. Petitioner is now detained at the Otay Mesa Detention Center in San Diego,
2 California, where he has been held since on or about June 10, 2026, and where he
3 remains in Respondents' custody as of the filing of this Petition.
4

5 33. Petitioner is in removal proceedings under section 240 of the INA, in which he is
6 seeking asylum and defending against removal. His next Master Calendar Hearing
7 is scheduled before Immigration Judge Robinson on July 16, 2026, at 1:00 p.m.
8

9 34. Petitioner has not been afforded a constitutionally adequate, individualized bond
10 hearing before a neutral decisionmaker at which the Government bears the burden
11 of justifying his continued detention.
12

13 35. Petitioner has meaningful ties to the community in which he has lived and worked,
14 and he has the support of a lawful permanent resident sponsor who is prepared to
15 receive him, as set out below.
16

17 36. Petitioner has secured a responsible sponsor, Nicolas Castaneda, a lawful
18 permanent resident of the United States since March 14, 2006. Mr. Castaneda
19 resides at [REDACTED] and is steadily employed.
20
21 He has known Petitioner for more than three years and has executed a sworn
22 statement attesting to Petitioner's good character — describing him as responsible,
23 respectful, hardworking, and a devoted father — and committing to provide
24 Petitioner with housing and financial support and to ensure that Petitioner appears
25 at all of his immigration proceedings.
26
27
28

1 37. Petitioner has no criminal convictions. His prior releases by the Government, his
2 consistent availability to the authorities over a period of years, his stable sponsor
3 and place to live, and his pending removal proceedings — in which he is seeking
4 asylum and wishes to appear — all confirm that Petitioner is neither a danger to
5 the community nor a flight risk. His continued detention serves no legitimate
6 purpose.
7

8
9 38. Petitioner is prepared to comply with any reasonable conditions of release —
10 including residence with his sponsor, regular reporting to ICE, electronic
11 monitoring, and any other conditions the Court or an immigration judge deems
12 appropriate — to assure his appearance throughout his removal proceedings.
13

14 39. Petitioner's continued detention inflicts ongoing and irreparable harm. It separates
15 him from the community and the sponsor who stand ready to support him, gather
16 evidence, and prepare a defense to removal in advance of his Master Calendar
17 Hearing on July 16, 2026. Each additional day of confinement without a hearing
18 compounds that harm.
19
20

21 LEGAL FRAMEWORK

22 40. The writ of habeas corpus protects individuals from unlawful detention and
23 affords “a swift and imperative remedy in all cases of illegal restraint or
24 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).
25
26
27
28

1 41. “It is well established that the Fifth Amendment entitles [noncitizens] to due
2 process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523
3 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Due process protects
4 “all persons’ within the United States, including noncitizens, whether their
5 presence here is lawful, unlawful, temporary, or permanent. *Zadvydas v. Davis*,
6 533 U.S. 678, 693 (2001).
7

8
9 42. “Freedom from imprisonment — from government custody, detention, or other
10 forms of physical restraint — lies at the heart of the liberty that the [Due Process]
11 Clause protects.” *Zadvydas*, 533 U.S. at 690. Due process therefore requires
12 “adequate procedural protections” to ensure that the Government’s asserted
13 justification for physical confinement “outweighs the individual’s constitutionally
14 protected interest in avoiding physical restraint.” *Id.* (internal quotation marks
15 omitted).
16
17

18 43. In the immigration context, the Supreme Court has recognized only two legitimate
19 purposes for civil detention: preventing danger to the community and preventing
20 flight. *Id.*; *Demore*, 538 U.S. at 528. Immigration detention may not be used as
21 punishment, and it is justified only upon an individualized determination, tied to
22 those purposes. *Zadvydas*, 533 U.S. at 690.
23
24

25 44. These principles reflect the broader rule that non-punitive civil detention is
26 constitutional only where it is strictly limited and accompanied by a prompt,
27 individualized hearing before a neutral decisionmaker. See *United States v.*
28

1 *Salerno*, 481 U.S. 739, 750-51 (1987); *Foucha v. Louisiana*, 504 U.S. 71, 79-83
2 (1992); see also *Addington v. Texas*, 441 U.S. 418, 427 (1979) (requiring proof by
3 clear and convincing evidence to justify civil confinement).
4

5 45. Consistent with these principles, the Supreme Court has emphasized that, in our
6 society, “liberty is the norm,” and detention without an adjudication of the
7 grounds that justify it “is the carefully limited exception.” *Salerno*, 481 U.S. at
8 755. It is the Government, not the individual, that bears the burden of bringing a
9 case within that narrow exception.
10

11 46. The detention of a noncitizen in ordinary removal proceedings is governed by 8
12 U.S.C. § 1226(a), under which the noncitizen is entitled to an individualized
13 custody determination, including a bond hearing before an immigration judge. See
14 8 C.F.R. §§ 1003.19, 1236.1.
15
16

17 47. The implementing regulations themselves contemplate meaningful custody
18 review: an immigration judge may redetermine the conditions of custody imposed
19 by DHS, 8 C.F.R. § 1236.1(d)(1), and may conduct that bond redetermination de
20 novo, 8 C.F.R. § 1003.19. The existence of this discretionary scheme does not
21 lower the constitutional floor. The procedures it affords must still satisfy the Due
22 Process Clause — including a neutral decisionmaker and a burden of proof
23 properly placed on the Government.
24
25

26 48. To comport with due process, the Government — not the detained noncitizen —
27 must bear the burden of justifying continued detention, and must do so by clear
28

1 and convincing evidence. *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir.
2 2011); see *Addington*, 441 U.S. at 427. A bond determination must also take
3 account of the detainee's financial circumstances and ability to pay, and must
4 consider alternative conditions of release sufficient to mitigate any risk.
5
6 *Hernandez v. Sessions*, 872 F.3d 976, 990-91, 1000 (9th Cir. 2017).

7 49. Although *Jennings v. Rodriguez*, 583 U.S. 281 (2018), held that the immigration
8 detention statutes do not themselves require periodic bond hearings, the Court
9 expressly declined to reach the constitutional questions and remanded them for
10 decision. The Fifth Amendment's requirements thus remain fully applicable and
11 are assessed on an individualized basis. See *Rodriguez Diaz v. Garland*, 53 F.4th
12 1189, 1207-11 (9th Cir. 2022) (evaluating the due process rights of a § 1226(a)
13 detainee under the *Mathews* framework).
14
15
16

17 50. The adequacy of the procedures afforded is measured under the three-factor test of
18 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), which balances (1) the private
19 interest at stake; (2) the risk of an erroneous deprivation under the procedures used
20 and the probable value of additional safeguards; and (3) the Government's
21 interest. Each factor weighs heavily in Petitioner's favor: his interest in physical
22 liberty is of the highest order; the risk of error is acute where he is detained with
23 no neutral, burden-shifted hearing despite the Government's own prior decisions
24 to release him; and the Government has no legitimate interest in detaining a
25 person who is neither dangerous nor a flight risk.
26
27
28

1 51.Finally, the relief Petitioner seeks is individual habeas relief, not a class-wide
2 injunction. Nothing in 8 U.S.C. § 1252(f)(1) limits this Court’s authority to grant
3 such individual relief. See *Garland v. Aleman Gonzalez*, 596 U.S. 543, 550-51
4 (2022).
5

6 52.Where the Government has previously released a noncitizen, its own prior
7 determination is powerful evidence that detention is unnecessary to serve any
8 legitimate purpose. Due process does not permit the Government to re-detain such
9 a person absent a genuine, individualized justification — tied to a present danger
10 or risk of flight — for departing from its earlier judgment. *Zadvydas*, 533 U.S. at
11 690.
12
13

14 **THE MATHEWS FACTORS REQUIRE AN INDIVIDUALIZED, BURDEN-**
15 **SHIFTED HEARING**

16 53.First, the private interest at stake is among the weightiest the Constitution
17 recognizes: Petitioner’s freedom from physical confinement. *Zadvydas*, 533 U.S.
18 at 690. Petitioner has already been deprived of his liberty for weeks and faces
19 continued detention of indefinite duration while his removal proceedings run their
20 course.
21
22

23 54.Second, the risk of an erroneous deprivation under the current procedures is acute,
24 and the value of additional safeguards is correspondingly high. Petitioner is
25 detained although no neutral decisionmaker has found him to be a danger or a
26 flight risk, and no hearing has required the Government to justify his confinement.
27
28

1 That risk is underscored by the Government's own prior conduct: ICE twice
2 released Petitioner in 2023, and he remained available in the community for years
3 afterward. Placing the burden on the Government to justify detention by clear and
4 convincing evidence, and requiring consideration of Petitioner's ability to pay and
5 of alternatives to detention, would substantially reduce the risk of error. *Singh*,
6 638 F.3d at 1203-04; *Hernandez*, 872 F.3d at 990-91, 1000.
7

8
9 55.Third, the Government has no legitimate interest in detaining a person who is
10 neither a danger nor a flight risk, and only a minimal interest in avoiding the
11 modest administrative burden of a prompt hearing — a burden immigration judges
12 shoulder as a matter of routine. Those interests cannot outweigh Petitioner's
13 liberty where the alternative is a brief, individualized hearing.
14

15 56.Balancing these factors, due process requires that Petitioner be released or
16 afforded a constitutionally adequate bond hearing without delay. Continued
17 detention in violation of these protections works irreparable harm, for “the
18 deprivation of constitutional rights unquestionably constitutes irreparable injury.”
19 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*,
20 427 U.S. 347, 373 (1976)).
21
22

23 **A TRO staying removal and transfer is necessary to prevent irreparable harm**
24 **and preserve jurisdiction.**
25

26 57.Petitioner is likely to succeed, or at minimum raises serious questions, on her
27 *Zadvydas*, due process, APA, and regulatory claims. The record shows a final
28

1 order that could not be executed because Laos declined return, years of release and
2 rehabilitation, and no identified material change.

3 58. Irreparable harm is immediate. Loss of physical liberty is irreparable. Transfer
4 would impair counsel access and evidence gathering. Removal would likely defeat
5 meaningful habeas review and deprive this Court of the ability to decide whether
6 detention is lawful before the consequences become irreversible.
7

8
9 59. The balance of equities favors Petitioner. She seeks only preservation of the status
10 quo, a lawful custody review, and release or supervision under reasonable
11 conditions. Respondents suffer no cognizable harm from being required to comply
12 with the Constitution and governing regulations.
13

14 60. The public interest favors lawful immigration enforcement, individualized custody
15 decisions, accurate post-order review, preservation of habeas jurisdiction, and
16 release under reasonable conditions when detention is not legally necessary.
17

18 61. The Court should therefore stay removal, prohibit transfer outside the District or
19 to a location that frustrates counsel's access, absent advance notice and Court
20 approval, and require Respondents to show cause within three days.
21

22 **CAUSES OF ACTION**

23 **COUNT TWO**

24 **Violation of the Fifth Amendment - Re-Detention Without Due Process or**
25 **Material Changed Circumstances**

26 62. Petitioner repeats, realleges, and incorporates by reference each preceding
27 paragraph as if fully set forth herein.
28

1 63. The Fifth Amendment prohibits Respondents from depriving any person of liberty
2 without due process of law.

3 64. By releasing or allowing Petitioner to live at liberty after the Government knew her
4 criminal history and after Laos declined return, Respondents created a legitimate
5 expectation that she would remain at liberty absent a material change in
6 circumstances and fair process.
7

8 65. Respondents violated due process by detaining or continuing to detain her based
9 on stale facts without notice, a neutral hearing, disclosure of evidence, an
10 opportunity to respond, and proof of a material change bearing on danger, flight
11 risk, violation of release conditions, noncooperation, or likelihood of removal.
12

13 66. The Court should declare the detention unconstitutional and order release or a
14 constitutionally adequate custody hearing at which the Government bears the
15 burden of proof.
16

17
18 **COUNT TWO**
19 **Violation of the Fifth Amendment Right to Due Process**
20 **(Substantive and Procedural Due Process), U.S. Const. amend. V**

21 67. Petitioner restates, realleges, and incorporates by reference each and every
22 allegation set forth above as if fully restated herein.

23 68. The Due Process Clause of the Fifth Amendment prohibits the federal government
24 from depriving any person of “life, liberty, or property, without due process of
25 law.” U.S. Const. amend. V. That protection extends to all persons within the
26 United States, including noncitizens. *Zadvydas*, 533 U.S. at 693.
27

1 69. Petitioner has a fundamental liberty interest in freedom from physical detention.

2 *Zadvydas*, 533 U.S. at 690. Government action depriving him of that interest must
3 be non-arbitrary, must serve a legitimate and individualized purpose, and must be
4 accompanied by the procedural protections the Constitution requires.
5

6 70. Respondents have detained Petitioner without any individualized finding that he is
7 a danger to the community or a flight risk, and without notice or a meaningful
8 opportunity to be heard before a neutral decisionmaker. By detaining Petitioner on
9 a categorical basis — and notwithstanding the Government's own prior
10 determinations that Petitioner could be released — Respondents have violated
11 both the substantive and procedural guarantees of the Fifth Amendment.
12
13

14 **COUNT THREE**

15 **Violation of the Fifth Amendment Right to Due Process**
16 **(Denial of a Constitutionally Adequate Bond Hearing), U.S. Const. amend. V**

17 71. Petitioner restates, realleges, and incorporates by reference each and every
18 allegation set forth above as if fully restated herein.

19 72. Due process entitles a civil immigration detainee to a prompt, meaningful,
20 individualized hearing before a neutral decisionmaker to determine whether his
21 continued detention is justified. *Zadvydas*, 533 U.S. at 690; *Salerno*, 481 U.S. at
22 750-51.
23

24 73. At such a hearing, the Government bears the burden of proving, by clear and
25 convincing evidence, that no condition or combination of conditions of release
26
27
28

1 will reasonably assure the safety of the community and Petitioner's appearance at
2 future proceedings. *Singh*, 638 F.3d at 1203-04; *Addington*, 441 U.S. at 427.

3 74. A constitutionally adequate hearing must also consider Petitioner's financial
4 circumstances and ability to pay any bond, and must consider alternative
5 conditions of release — such as supervision or monitoring — that would mitigate
6 any asserted risk. *Hernandez*, 872 F.3d at 990-91, 1000.

7
8
9 75. Due process further requires that the immigration court make a contemporaneous
10 record of the bond hearing, so that the basis for any custody decision can be
11 meaningfully reviewed; a post hoc administrative memorandum is not a substitute
12 for such a record. *Singh*, 638 F.3d at 1200, 1208-10.

13
14 76. Respondents have detained Petitioner without affording him such a hearing. Their
15 failure to provide a neutral decisionmaker, to bear the burden of justification by
16 clear and convincing evidence, and to consider Petitioner's ability to pay and
17 available alternatives to detention violates Petitioner's right to procedural due
18 process.
19

20
21 77. Here, Petitioner has received none of these protections. No neutral decisionmaker
22 has assessed the necessity of his custody; the Government has been required to
23 carry no burden of proof; and no decisionmaker has weighed Petitioner's ability to
24 pay any bond or the availability of supervision or other conditions that would
25 reasonably assure his appearance. The constitutional deficiency is plain, and it is
26 ongoing.
27
28

COUNT THREE
Violation of the Fifth Amendment Right to Due Process
(Detention Not Reasonably Related to Any Legitimate Purpose), U.S. Const.
amend. V

78. Petitioner restates, realleges, and incorporates by reference each and every allegation set forth above as if fully restated herein.

79. Civil detention violates due process unless it bears a reasonable relation to the purpose for which the individual is held. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 527-28.

80. Petitioner's detention bears no reasonable relation to any legitimate purpose. The Government twice released Petitioner in 2023, necessarily determining that he was neither a danger nor a flight risk, and Petitioner thereafter remained available in the community for years. He has no criminal convictions. No material change in circumstances justifies his present detention; to the contrary, Petitioner has secured a lawful-resident sponsor, a stable place to live, and financial support, and he is seeking asylum and wishes to appear in his pending removal proceedings.

81. The infirmity only deepens with time. Detention that might be justified at its inception becomes increasingly untethered from any permissible purpose the longer it continues without a neutral, individualized hearing. *Zadvydas*, 533 U.S. at 690-91. Petitioner has been held since June 10, 2026 without any such hearing, even though his removal case remains at the Master Calendar stage and no tribunal has found him to be a danger or a flight risk.

1 82. Because Petitioner's confinement is not reasonably related to preventing danger or
2 flight — the only legitimate purposes for civil immigration detention — it offends
3 the Due Process Clause of the Fifth Amendment.
4

5 **COUNT FOUR**
6 **Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)**
7 **(Arbitrary, Capricious, and Not in Accordance with Law)**

8 83. Petitioner restates, realleges, and incorporates by reference each and every
9 allegation set forth above as if fully restated herein.

10 84. Under the APA, a reviewing court shall “hold unlawful and set aside agency
11 action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in
12 accordance with law,” “contrary to constitutional right,” “in excess of statutory ...
13 authority,” or “without observance of procedure required by law.” 5 U.S.C. §
14 706(2)(A)-(D).
15

16 85. An agency abuses its discretion when it “entirely fail[s] to consider an important
17 aspect of the problem, offer[s] an explanation for its decision that runs counter to
18 the evidence before the agency, or is so implausible that it could not be ascribed to
19 a difference in view or the product of agency expertise.” *Motor Vehicle*
20 *Manufacturers Ass’n v. State Farm Mutual Automobile Insurance Co.*, 463 U.S.
21 29, 43 (1983); accord *National Ass’n of Home Builders v. Defenders of Wildlife*,
22 551 U.S. 644, 658 (2007).
23
24
25

26 86. To survive review, an agency must articulate “a satisfactory explanation for its
27 action including a rational connection between the facts found and the choice
28

1 made.” *Department of Commerce v. New York*, 588 U.S. 752, 773 (2019) (internal
2 quotation marks omitted). An agency may not depart from a prior policy or
3 disregard the reliance interests its prior decisions created without reasoned
4 explanation. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515-16 (2009);
5 *Department of Homeland Security v. Regents of the University of California*, 591
6 U.S. 1, 30-33 (2020).
7

8
9 87. In detaining Petitioner, Respondents failed to consider his individualized
10 circumstances — his prior releases, his sustained availability to the authorities, his
11 lawful-resident sponsor, his stable residence, and the absence of any danger or
12 flight risk — and offered no reasoned explanation connecting the facts to the
13 decision to detain him. Respondents’ detention of Petitioner is therefore arbitrary,
14 capricious, an abuse of discretion, and not in accordance with law. 5 U.S.C. §
15 706(2)(A).
16
17

18
19 **COUNT FIVE**
20 **Violation of the Immigration and Nationality Act and Implementing Regulations**
21 **(Unlawful Detention Under 8 U.S.C. § 1226(a))**

22 88. Petitioner restates, realleges, and incorporates by reference each and every
23 allegation set forth above as if fully restated herein.

24 89. As a noncitizen in section 240 removal proceedings, Petitioner is detained under 8
25 U.S.C. § 1226(a), which authorizes detention but entitles the noncitizen to an
26 individualized custody determination and to a bond hearing before an immigration
27 judge. 8 C.F.R. §§ 1003.19, 1236.1. Immigration detention under § 1226(a) is
28

1 discretionary and must rest on an individualized assessment of danger and flight
2 risk. *Zadvydas*, 533 U.S. at 690.

3 90. Respondents have detained Petitioner without the individualized custody
4 determination that the INA and its implementing regulations require, and have
5 made no finding that Petitioner is a danger to the community or a flight risk.
6 Respondents' detention of Petitioner thus exceeds their lawful authority under the
7 INA.
8
9

10
11 **COUNT SIX**
12 **Violation of the Fourth Amendment**
13 **(Unreasonable Seizure), U.S. Const. amend. IV**

14 91. Petitioner restates, realleges, and incorporates by reference each and every
15 allegation set forth above as if fully restated herein.

16 92. The Fourth Amendment protects "[t]he right of the people to be secure in their
17 persons ... against unreasonable searches and seizures." U.S. Const. amend. IV.
18 Immigration arrests and detentions are "seizures" within the meaning of the
19 Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984).

20 93. The Fourth Amendment requires a neutral determination of probable cause, either
21 before the arrest in the form of a warrant or promptly afterward; for a warrantless
22 arrest, that determination must ordinarily occur within forty-eight hours. *Gerstein*
23 *v. Pugh*, 420 U.S. 103, 114 (1975); *County of Riverside v. McLaughlin*, 500 U.S.
24 44, 56-57 (1991). Congress has expressed a strong preference that immigration
25 arrests rest on warrants, *Arizona v. United States*, 567 U.S. 387, 407-08 (2012),
26
27
28

1 and the INA confers only limited authority for warrantless immigration arrests, 8
2 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2).

3 94. Petitioner was seized at an immigration checkpoint on his way to work on June
4 10, 2026, and has been held in custody since. He received no neutral judicial
5 determination of probable cause for his arrest or his continued detention.
6

7 Respondents' seizure of Petitioner was therefore unreasonable and in violation of
8 the Fourth Amendment.
9

10 95. The brief inspection permitted at an immigration checkpoint did not authorize
11 Petitioner's prolonged, warrantless custodial detention without a neutral
12 determination of probable cause. Having seized and continued to hold Petitioner
13 without satisfying that requirement, Respondents have effected an unreasonable
14 seizure in violation of the Fourth Amendment.
15
16

17 **REQUEST FOR EXPEDITED CONSIDERATION**

18 96. Because Petitioner challenges his ongoing physical detention, this matter warrants
19 prompt resolution. The habeas statute itself reflects that urgency, directing the
20 Court to act "forthwith" and to require a return within three days absent good
21 cause. 28 U.S.C. § 2243. Each day of detention without a constitutionally
22 adequate hearing inflicts irreparable injury on Petitioner's liberty. *Melendres*, 695
23 F.3d at 1002.
24
25
26
27
28

1 97. The need for expedition is heightened by Petitioner's circumstances. His next
2 Master Calendar Hearing is set for July 16, 2026. Petitioner therefore respectfully
3 requests that the Court order Respondents to show cause on an expedited basis and
4 resolve this Petition as promptly as the Court's calendar permits.
5

6
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- 9 (1) Assume jurisdiction over this matter;
- 10 (2) Issue an Order to Show Cause requiring Respondents to show cause within three
11 days why the writ should not be granted;
- 12 (3) Declare that Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6),
13 *Zadvydas v. Davis*, *Clark v. Martinez*, the *Fifth Amendment*, the APA, and 8 C.F.R. §§
14 241.4 and 241.13;
- 15 (4) Declare that Respondents may not detain or re-detain Petitioner based on facts
16 known before release, absent fair process and a material change in circumstances;
- 17 (5) Declare that Respondents must produce reliable evidence of material change of
18 circumstances before continuing detention under § 1231(a)(6);
- 19 (6) Issue a writ of habeas corpus ordering Respondents to immediately release
20 Petitioner from custody under reasonable conditions of supervision;
- 21 (7) In the alternative, order Respondents to provide a prompt constitutionally
22 adequate custody hearing or post-order custody review before a neutral decisionmaker,
23
24
25
26
27
28

1 with the Government bearing the burden to justify detention by clear and convincing
2 evidence;

3 (8) Order Respondents to produce the full custody file, removal file, travel-
4 document communications, post-order custody-review records, release or supervision
5 records, revocation records, and all evidence relied upon to justify detention;
6

7 (9) Issue a Temporary Restraining Order staying Petitioner's removal from the
8 United States pending further order of this Court;
9

10 (10) Issue a Stay of Removal Order prohibiting Respondents from transferring
11 Petitioner outside this District, or to any location that would frustrate counsel access or
12 this Court's jurisdiction, without advance notice to counsel and leave of Court;
13

14 (11) Require Respondents to preserve all custody, removal, travel-document,
15 supervision, criminal-history, release, transfer, and communications records
16 concerning Petitioner;
17

18 (12) Set no bond under Rule 65(c), or only nominal bond, because the requested relief
19 protects constitutional rights and imposes no monetary harm on Respondents;
20

21 (13) Grant such other and further relief as the Court deems just, equitable, and proper.

22 Respectfully submitted,

Dated: 06/26/2026

23 /s/ Mario Portugal

24 Mario Portugal, Esq.

25 Attorney for Petitioner Julio Mateo Lorenzo
26
27
28